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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, January 6, 1981, at 5:00 p.m. at the State Building
350 McCallister St. #1195

I. Call to order

The meeting was called to order by President Cole-Chu at 5:20 p.m.

II: Roll Call

Commissioners Present: Cole-Chu, Presiding; Flynn; Alternates:
Horsley, Payne.

Commissioners Not Present: Baird, Saunders; Alternates: Vurek, Neves, Bell

Staff Present: Ricardo Hernandez and Susan Francis

III. Consideration of Appeals

- A) 1019 Hampshire, Apt. A: The Reviewing Officer was Ruth Astle; the Original Hearing Officer was Susan Girtler. The landlord has appealed because he had requested a \$50.00 increase for a child who had been living in the apartment since birth and is now 5 years old. An increase had been allowed for water and sewage increases.

The Reviewing Officer recommended accepting the appeal.

MSC: That the Board deny the appeal (Payne/Flynn: 4-0).

- B) 1930 Hyde, #9: The Reviewing Officer was Ruth Astle; the Original Hearing Officer was Herb Schwartz. The landlord has appealed based on decisions made by the Hearing Officer with regard to increase in operating and maintenance expenses and the amortization of fire alarm and smoke detector systems. The Board discussed the fact that the Hearing Officer only allowed a prorated amount of insurance. Also, the Hearing Officer required evidence of tax benefits and mortgage payments.

The Reviewing Officer recommended that the case be remanded back to the Hearing Officer.

M: That the appeal be denied (Flynn)
MSC: That the appeal be accepted before the Board, amended, to be on operating and maintenance expenses only (Payne/Horsley: 2-2 - Flynn, Cole-Chu dissenting).

MSC: That the Board accept the appeal and remand it to a new Hearing Officer with specific instructions referencing the applicable rules and regulations with regard to the aggregation of operating expenses, not including debt service (Flynn/Horsley: 4-0).

- C) 130 Frederick Street:


MSC: That Commissioner Flynn be excused from consideration of this appeal (Payne/Horsley: 3-0).

The Reviewing Officer was Robert Curran; the Original Hearing Officer

DOCUMENTS 2171

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was Susan Girtler. The landlord appealed the decision based on the H.O's treatment of escaped tax assessments, closing costs, and the fact that new rules and regulations had been adopted with regard to PGE pass-through.

The Reviewing Officer recommended that the case be remanded on the PGE computation only.

MSC: That the Board accept the appeal and hear it de novo (Payne/Horsley: 3-0).

- D) 2335 Pacific Ave: The Reviewing Officer was Elaine Lee; the Original Hearing Officer was Laura Schwartz. The landlord appealed on increased operating and maintenance expenses and on comparables. The figures submitted did not substantiate these increases.

The Reviewing Officer recommended denying the appeal.

MSC: That the appeal be denied (Flynn/Horsley: 4-0).

IV. Approval of the Minutes

This matter held over until the next regular meeting.

V. Approval of Appeals

Tenants of 755, 765, 775, 795 Burnett Street:

Ahearing before the Board was held on November 18, 1980. The hearing was heard de novo on the issue of comparables, while the remaining issues were heard only on the record. The Original Hearing Officer, Elaine Lee, allowed comparability studies to be submitted and also allowed increases based on capital improvements.

MSC: That the Board uphold the Hearing Officer's decision with regard to the increase on comparables. That an increase based on capital improvements and increased operating and maintenance not be allowed, based on the record, which did not show that the landlord had carried his burden of proof with regard to these expenses (Flynn, Horsley: 4-0).

MSC: That this decision be amended based on Rules and Regulations Section 6.10(c); the total increase to be allowed will be the 7% guideline plus 8% based on comparables to reach a total 15%, the amount of the CPI. If the Hearing Officer's decision is less than a 15% increase it shall stand.

After the decision by the Board remarks were received from the audience which included a number of Tenants from 755, 765, 775, 795 Burnett Street.

VI. Consideration of Reports of Wrongful Evictions:

A) Hearings:

1. 2895-A Folsom Street
2. 3190 - 25th Street

2 6708 SF: ECDND JF5
16 SF 10/16/75 1057

MSC: To excuse Commissioner Payne from this hearing (Flynn/Horsley: 3-0).

The parties agreed that both cases could be consolidated because the tenants all live in the same building and the issues are the same.

Appearing as a representative with tenants Jacqueline Cantwell and Marc Lecard was William Corman. Tenant Diane Yost also appeared. With Fabio Escobar, representative of the landlord, Landmark Realty, was Barbara Jagiello.

Notice to vacate given to all the tenants was that the landlord intended to do substantial rehabilitation (Section 37.9 (a)(11)) of the ordinance. The tenants stated that they had reported building code violations to the City before receiving their notices to vacate. The landlord stated the extensive plumbing work needed to be done, but he was not sure of the exact costs. One permit was submitted to the Board that was issued December 11, 1980 - there was no estimate of the cost of the work.

MSC: That the notice to vacate be declared invalid (Flynn/Cole-Chu: 3-0).

MSC: That if negotiations do not settle the case between the landlord and tenant, the case will be reset for a hearing on January 20, 1981 (Flynn/Horsley: 3-0).

B) Report from Staff

1. There has been a request from Pat Mitzuhara, landlord for 2055 California, that there be a rehearing with regards to hearings on evictions held before the Board on November 12, 1980 and December 2, 1980. The Board found attempts of Wrongful Evictions in all cases, but decided to take no further action unless the landlord pursued Unlawful Detainer actions. Complaints have been received by the staff from the tenants about actions by the landlord.

MSC: That the request for rehearing be denied (Flynn/Payne: 4-0).

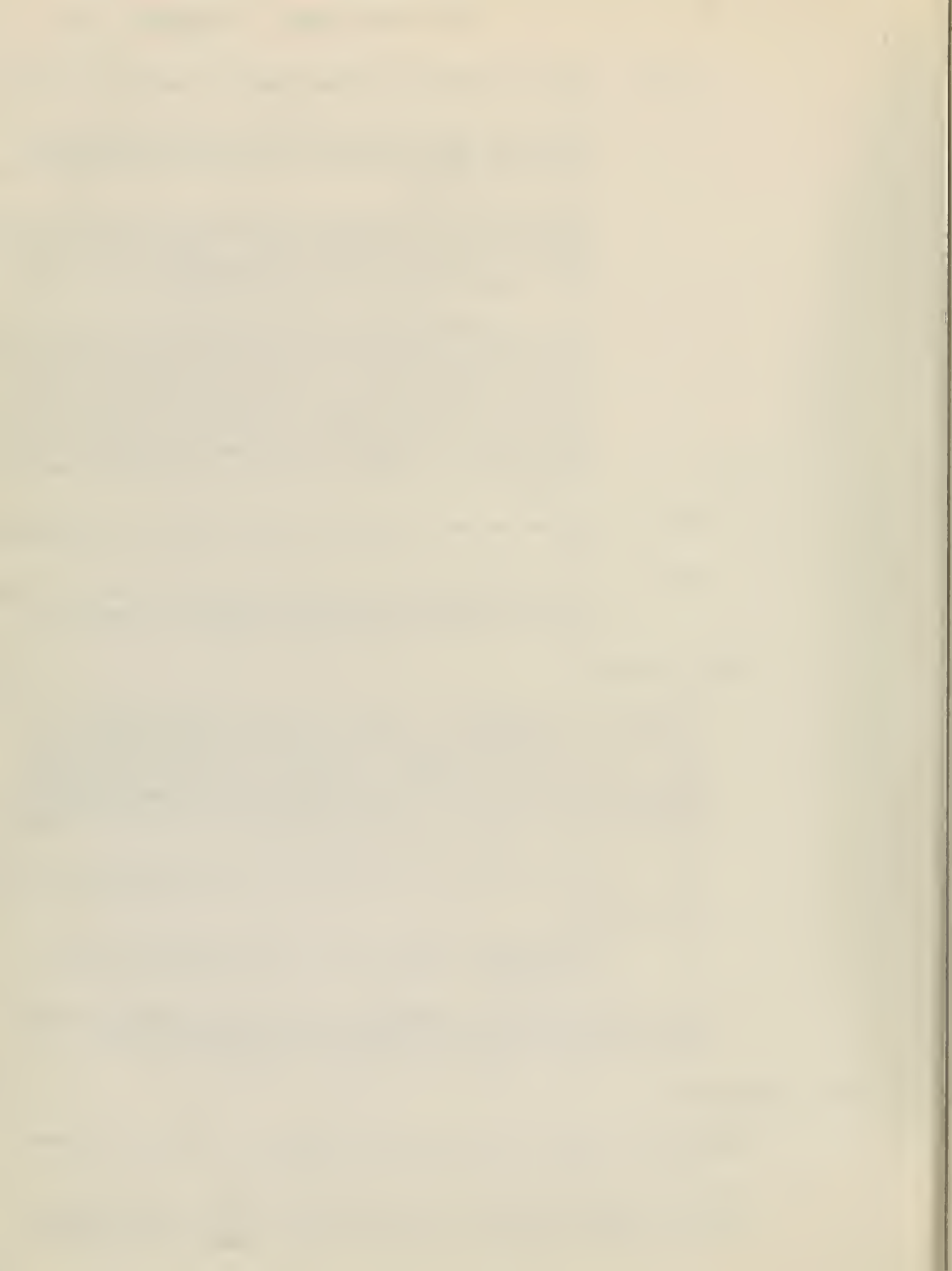
2. 755 Burnett #3

MSC: That the Board accept for a hearing January 13, 1981 (Flynn/Horsley: 4-0).

3. Staff has been working on scheduling a workshop for Hearing Officers who are interested in hearing alleged Wrongful Eviction cases. President Cole-Chu expressed interest in attending.

VII. Communications

- A) A letter was received by the Mayor thanking her for her prompt response with regard to security for the John Muir complex.
- B) A letter has been received from Mary Etcheverry Clemens asking for an advisory opinion on evicting a resident manager after his/her employment has been terminated; will this constitute a just cause for eviction?



MSC: That the Board decline to give an advisory opinion (Flynn/Payne: 4-0).

- C) An article from the January 1981 "San Francisco Magazine" was discussed by the Board which described housing problems and rent control in San Francisco.
- D) A "Summary of the Final Report of the Citizens Housing Task Force" was presented to the Board. Public reviews will be held January 7th and 14th at 7:30 p.m. at the Main Auditorium, 3rd Floor, 101 Grove Street. President Cole-Chu will be in attendance.

VIII. Director's Report

- A) Ricardo Hernandez was chosen as the new Executive Director on January 5, 1981 by the Board in an executive session. Mr. Hernandez has been contacted by both the Examiner and the Chronicle for interviews.
- B) The Executive Director has been informed by the Mayor's office that effective July 1, 1981 the Rent Board will become a separate City department.
- C) The Finance Committee of the Board of Supervisors will meet to discuss the \$11,546.00 allocation for capital improvements for 170 Fell, Room 16 and 17 on January 6 at 2:00 p.m.

IX. Old Business

- A) \$25.00 was paid to Eunice's Restaurant by the Commissioners as the amount outstanding for the Christmas Party.
- B) The Hearing Officers are all to be invited to the regularly scheduled Board Meeting on January 27 at 5:00 p.m. It is hoped at this time the Board will be able to answer any questions that they may have regarding interpretation of the Ordinance, policy issues, or criticisms of Rent Board procedures.

X. Calendar Items

- A) Regular meeting of the Board to be held January 13, 1981.
- B) Meeting with the Hearing Officers to be held on January 27, 1981.

XI. Adjournment

The meeting was adjourned at 9:27.





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, January 13, 1981, at 5:00 p.m. at the State Building
350 Mc Allister St. #1195

I. Call to order

The meeting was called to order by Commissioner Flynn at 5:10 p.m..

II. Roll Call

Commissioners Present: Vice-President Flynn, Presiding: Baird, Saunders
Alternate: Payne, Vurek

Commissioners Not Present: Cole-Chu; Alternate: Bell, Horsley, Neves

Staff Present: Ricardo Hernandez, Susan Francis, John Blackburn

III. Approval of Minutes of January 6, 1981

MSC: (S/B: 3-0) Approve the minutes.

IV. Communications

1) All Commissioners should have received an article which appeared in the
San Francisco Progress (1-9-81), dealing with a tenant who had concerns
regarding the Citizen's Housing Task Force Recommendations. The Mayor
had called her and spoke with the tenant (Mrs. Young).

2) Two new persons, Barbara O'Hearn and Wayne Nishioka, have requested to
be Hearing Officers for the Rent Board.

MSC: (B/S: 3-0) Accept two candidates if Executive Director so
approves these candidates.

3) A letter was received from Supervisor Walker regarding owner-occupied
exempt buildings, wherein she requested statistics on the number of
such units in San Francisco.

There was some discussion on the Citizen's Housing Task Force report on
owner-occupied exempt buildings becoming covered by the Ordinance.

4) The request for capital improvement monies for 170 Fell Street, #16 & 17
has gone to the Board of Supervisors. The Rent Board will be offered an
extra 3-year option on the space lease, and should the School District
request the space back, the City would be reimbursed on a 4-year
amortization schedule for the capital improvements.

DOCUMENTS DEPT.

V. Consideration of Appeals

1) 710 Clayton Street: OHO - Joan Kubota
R.O. - Susan Girtler

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The OHO disallowed 7% rent increase due to decreased housing services.
The rent was further reduced \$50 per month for decreased services from
January through September, 1980.

The landlord appealed the decision based on the reduction of rent for
decreased housing services.

There was comment made on the need for the Rent Board to establish some guidelines for Hearing Officers concerning reduced rent for reduced housing services.

MSC: (S/V: 4-0) Accept and hear de novo, also on the eviction issue schedule for February 3, 1981

- 2) 2186 Vallejo: OHO - Joan Kubota
RO - Susan Girtler

Commissioner Baird disqualified himself from voting as he knows one of the parties.

MSC: (S/V: 4-0) Allow Commissioner Baird to disqualify himself.

The Hearing Officer denied increased operating and maintenance expenses for lack of proper documentation. The record was left open for submission of bills/receipts, but those submitted were not sufficient.

The landlord appealed based on the Ordinance not having jurisdiction because the Certificate of Occupancy was issued May 1, 1979.

There was some discussion of what evidence is necessary to justify rent increases over the guidelines, and when the record is left open for documentation, when does the Hearing Officer cut off submission of evidence.

MSC: (S/V: 3-0) Remand to the same Hearing Officer for computation of capital improvement expenses only.

There was discussion on the landlord's point of the rented garage not being subject to the Ordinance. The Board did not have sufficient evidence to rule on this issue.

- 3) 334 Orizaba: OHO - Joan Kubota
RO - Susan Girtler

The Hearing Officer denied the landlord's request for 126% rent increase.

The landlord appealed that the current rent was too low; the landlord did not present evidence on comparables, and the house could not be maintained at such a low rent. The Hearing Officer allowed a 19% rent increase. The landlords failed to meet their burden of proof.

The Reviewing Officer recommended denying the appeal.

There was some discussion on the tenant acting as caretaker and receiving a decreased rent for said services. There was no written agreement to that effect.

MSC: (S/V: 4-0) Accept the case de novo.

VI. Consideration of Reports of Wrongful Eviction

- A) Hearing - 775 Burnett Street, #3.

Breslin V. Dudum: The tenant had filed for arbitration hearing. The

rent increase notice was delivered in October, 1979.

The tenant filed his petition and later received a 3-day notice.

Tenant moved in November, 1978, with his son into the 2-bedroom/2 bath apartment. The son moved out May, 1980, and his daughter moved in May, 1980.

The landlord purchased the building in 1977, with a full-time manager to handle building affairs. The manager left and a new manager was hired. The landlord learned of the daughter living with Mr. Breslin. The landlord contacted his attorney to begin eviction proceedings.

Mr. John Kelley, another tenant in the same building, had an unlawful detainer action filed, went through a jury trial and won, and had also filed a petition for an arbitration hearing.

MSC: (B/V: 4-0) This matter be put continued for one week for staff report. If no resolution, parties should reappear before this Board.

VII. Director's Report

- 1) The Rent Board hired a Clerk-Typist, Alma Parra, who began January 7, 1981.
- 2) \$11,546.00 appropriation has been sent to the Board of Supervisors.
- 3) The Rent Board meeting on January 27, 1981, all staff, Hearing Officers, and Commissioners will hopefully be present. The discussion will center on policies, procedures, and evaluation of the Board. A letter will be sent to all Hearing Officers this week.
- 4) A workshop for Hearing Officers who will hear evictions will be held January 23, 1981 at 3:00 p.m. Hearings will commence January 27, 1981.
- 5) The Executive Director and Susan Francis will visit Senator Marks' office to explain the Ordinance.
- 6) The Mayor requests nominations for the neutral position on the Rent Board.
- 7) Travis Campbell has filed an \$8 Million lawsuit against the Mayor, Board of Supervisors, the Rent Board, and Does 1 - 100.

VIII. New Business

- 1) A packet of materials was received from Dr. Peter Bullock regarding 246 McAllister. The Real Estate Department forwarded the matter to the Rent Board for possible exemption from the Ordinance based on substantial rehabilitation.
- 2) Commissioner Baird commented on the report from the Citizens Housing Task Force on the current housing situation in San Francisco.

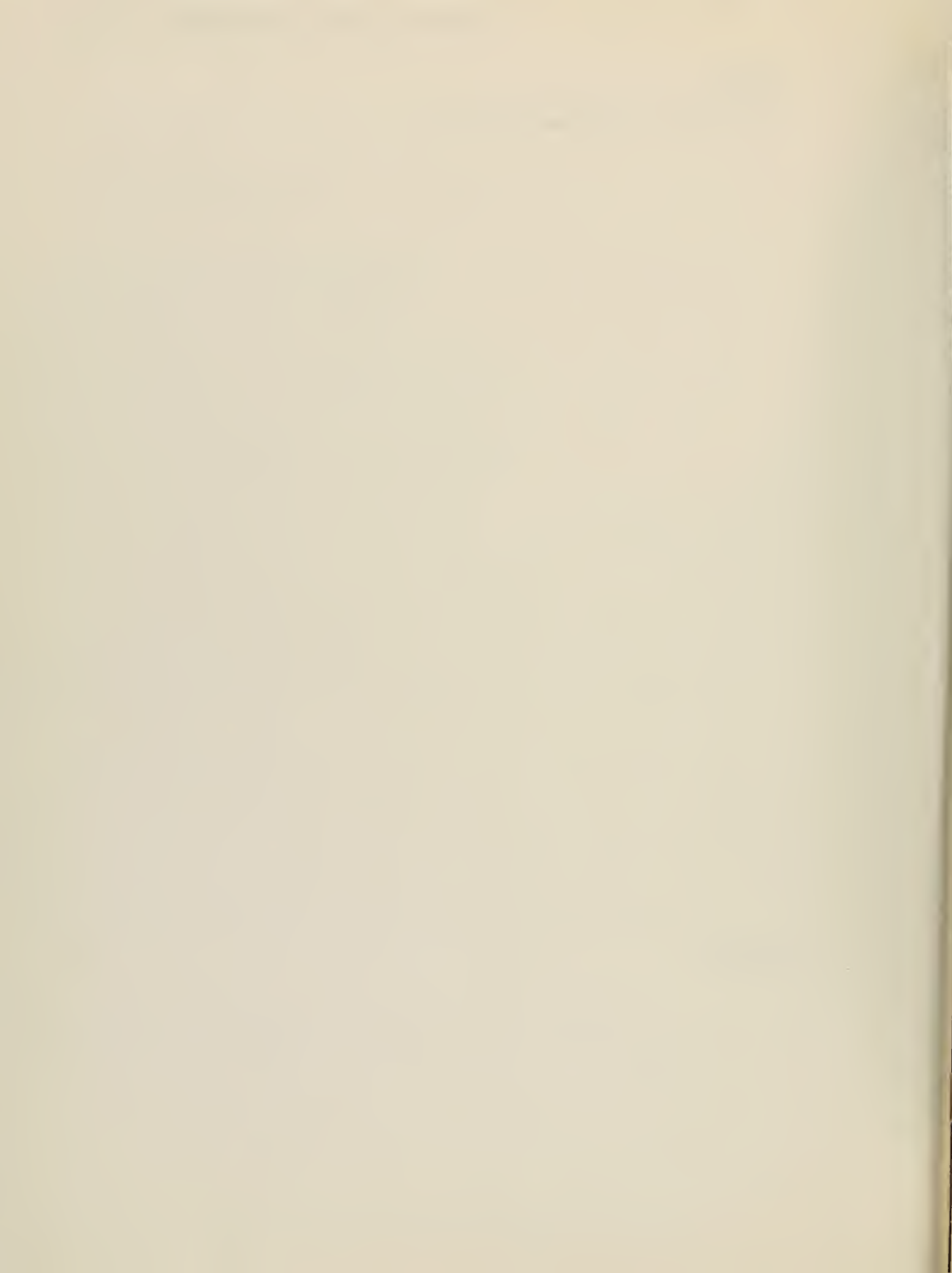
IX. Remarks from the Public

- 1) Bill Bloodgood, from New College of Law introduced himself. He will be auditing the Rent Board.

X. Adjourned

The meeting was adjourned at 8:00 p.m.

1/14/80:ap





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 3, 1981, at 5:00 p.m. at the State Building, 350 McAllister St. #1195

I. Call to Order

The meeting was called to order by President Cole Chu at 5:25 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding; Flynn
Alternates: Payne, Horsley
Late arrival, Baird 7:50 p.m.

Commissioners not Present: Saunders; Alternates: Bell, Neves, Vurek.

Staff Present: Ricardo Hernandez

DOCUMENTS DEPT.

III. Consideration of Appeals

- 1) 1625 Lyon Street: R O - Josse Desmarais
OHO - Susan Girtler

The landlord appealed the decision on increase operation and maintenance expenses and evidence of comparables. Specifically the landlord questions the authority of the Hearing Officer to deny the respondent from charging \$500 for garbage. Both the Reviewing Officer and the Hearing Officer felt that the landlord did not bear the burden of proof in justifying a rent increase over the guideline amount.

The Reviewing Officer recommended that the appeal be denied.

MSC: That the Board deny this appeal and uphold the Hearing Officer decision (Flynn/Horsley 4-0).

- 2) 4674-A 18th Street: R O - Ruth Astle
OHO - William Braver.

The landlord is appealing the case because he was not present at the hearing. The question to consider is whether any excuse is justification for a consideration of an appeal.

The Reviewing Officer recommended to deny the appeal.

MSF: To accept the appeal De Novo (Payne/Flynn 1-3 Failed Payne voting aye).

MSC: That the Board deny the appeal (Flynn/Horsley 3-1 Payne dissenting).

- 3) 1266 De Haro: RO - Ruth Astle
OHO- Laura Swartz
RHO- Laura Swartz

The first hearing was on August 11, 1980; the Remanded Hearing was on November 18, 1980. The landlord claims an increase for capital improvements, although admitting they are not complete, not done since these tenants moved in nor do they benefit the tenants in these apartments.



The Reviewing Officer recommended denial of the appeal.

MSC: That the Board deny the appeal and uphold the Hearing Officer decision (Payne/Flynn 4-0).

4) 120 Pierce: R O - Ruth Astle
OH0 - Susan Girtler

This is a reconsideration of a denied appeal. Commissioner Payne asked to be excused since he knows personally one of the parties involved.

MSC: To allow Commissioner Payne to excuse from the consideration (Flynn/Horsley 4-0). The request of the landlord is to simply allow for a recomputation of a mistake in mathematics by Hearing Officer and Reviewing Officer based on erroneous past PG&E bills.

Reviewing Officer recommends acceptance of appeals on the record to allow a correction of decisions.

MSC: That the appeal be accepted for a review on the record and remanded to Ms. Astle for decision. (Flynn/Horsley 3-0). Specification made that the two issues to be incorporated in the remand shall be both incorrect figures and the proper time to be used for computation.

IV. Appeal Hearing

1) 710 Clayton Street:

The landlord appealed the decision of the Hearing Officer also the tenants have filed a report of allegations of Wrongful Eviction. The landlord was not present and the Board asked the Director to give a report as to the reasons such person was not expected. The director gave a report of the landlord coming to the office and stating that an office emergency had occurred and that he had to be out of the city. The Director urged the landlord to write a letter to the Board explaining the emergency. No such letter arrived by close of business.

MSF: To postpone hearing to another time (Payne/Flynn 1-3 Payne assenting).

The hearing continued on the record (Tape available), testimony provided by tenants and record reviewed by Commissioners,

MSW: To uphold the Hearing Officer decision (Flynn/Horsley) motion withdrawn for purpose of clarity.

MSC: To dismiss the appeal-without prejudice (Flynn/Horsley 3-1 Payne dissenting).

V. Continuation of Appeals Consideration: 340 Church Street:

A lengthy discussion was carried out on the record (tape available for most of discussion) Both sides presented large amount of testimony and evidence available on the record.

MSC: To hear the case De Novo (Payne/Flynn 4-0)

A special meeting will be set to hear this case on Wednesday, February 25, 1981 at 7:00 p.m.

VI. Communications

The Director presented the applications of seven new Hearing Officers.

MSC: To accept the Director's recommendation to hire,
(Baird/Payne 4-0)

The Real Estate Department letter for clarification of Capital Improvement Certification.

MSC: To ask the President and the Director to meet with
the Real Estate Department as soon as possible to
clarify the matter. (Baird/Flynn 4-0).

VII. Director's Report

The Director gave a brief explanation of new minor office changes, the securing of a new CETA clerk typist, and the increase hearings to deal with the workload of the office.

VIII. Old Business

The Board ordered the Director to write a letter to the City Attorney asking for their assistance in entering into a suit against a landlord who has wrongfully evicted tenants.

IX. New Business

The Board ordered the Director to write a letter to the City Attorney asking for their assistance in entering as intervener or as co-counsel on a case being considered for Superior Court appeal.

MSC: (Payne/Flynn 4-0).

X. Calendar

Notice of change of meeting time to be discussed next Tuesday.

XI. Adjourned

Meeting adjourned at 9:50 p.m.

2/5/81:ap



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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD on Tuesday, February 10, 1981 at 5:00 p.m.

Room #1195, State Building, 350 McAllister Street

I. Call to Order

The meeting was called to order by President Cole-Chu at 5:06 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding, Flynn, Baird, Saunders
Commissioners Not Present: Alternates: Bell, Neves, Horsley, Vurek, Payne
Staff Present: Ricardo Hernandez

III. Consideration of Appeals:

- A) 940 - 950 Bay Street: Reviewing Officer: Ruth Astle
Original Hearing Officer: Dwayne Kunath

The landlord appealed the decision on the issue of recent purchase under Section 6.10b and lack of due process by the Board-the decisions are not properly indexed. Specifically, the lawyer for the landlord states that even though the landlord bought one-half interest in July 1979, he only bought the other half in June of 1980. Both Original Hearing Officer and the Reviewing Officer felt the decision was correct, but that the Board may wish to hear the case themselves because of the uniqueness of the situation.

MSD: That the Board deny the appeal
(Baird/Saunders: 1-3 Baird Affirmative)

MSC: That the Board hear the Case De Novo
(Flynn/Saunders: 3-1 Baird Dissenting)

- B) 2325 Bay Street: Reviewing Officer: Ruth Astle
Original Hearing Officer: Laura Swartz

This was originally heard, appealed, and remanded based on jurisdictional issues. The appeal of the second decision which was based on a Municipal Court order that the landlord take nothing in back rent with the stipulation that the tenant will move out. The landlord is now appealing that order asking it to be staid until his appeal from the court decision is finalized.

Both the Reviewing Officer and the Hearing Officer agreed that the court order should be followed. If the court order is overturned, then the court order will be changed and followed.

)

MSC: That the Board deny the appeal and uphold the Hearing Officer's decisions. (Baird/Saunders 4-0)

----- The Board moved into Executive Session to discuss litigation matters with the City Attorney (6:15 p.m.)

----- The Board resumed its meeting.

MSC: That the November 4, 1980 decision on the property at 1253 - 16th Avenue be set aside per the order of the judge. (Baird/Flynn 4-0)

C) 7421 Geary Blvd. Reviewing Officer: George Newkirk
Original Hearing Officer: Jackson Wong

The landlord is appealing the decision based on the opinion that the Findings of Facts set forth by the Hearing Officer were not supported by the evidence presented and that the Hearing Officer abused his discretion in that the order is not supported by the evidence. The Reviewing Officer agrees with the landlord appeal and recommended that the appeal be accepted De Novo and to be heard by the Board.

MSC/AC: That the Board accept the appeal and hear it themselves, amended, to also address the issue of a threshold question - Can a rent increase be given to a tenant before the 12th month period? (Saunders/Flynn 4-0)

IV. Appeal Hearing

334 Orizaba Avenue: Case heard on the issue of comparable rents (tape is available).

MSC: To grant the landlord an increase of \$195.00 effective September 7, 1980 - however stipulated by both parties that the increase not be implemented until March 1, 1981, but the landlord can have an anniversary increase on September 1, 1981. (Flynn/Saunders 4-0)

V. Director's Report

The Director informed the Board of the new staff selection; Ms. Irma Usi is a new Clerk Typist in the office. Also, reports were made on the luncheon meeting with twenty (20) Hearing Officers on February 6, 1981, the increase hearing schedules, the new eviction hearing schedules, Mr. Blackburn attendance at a course in Municipal Budgeting and progress on the Brochure.

VI. New Business

Amendments to the Rules and Regulations: The Board moved to change the regular time of Board meetings from 5:00 p.m. to 5:30 p.m. on each Tuesday. (Baird/Flynn 4-0)

VII. Adjournment

The meeting was adjourned at 9:00 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, February 17, 1981, at 5:00 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

The meeting was called to order by President Cole-Chu at 5:15 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding; Flynn, Baird
Alternates: Payne

Commissioners not Present: Saunders; Alternates: Bell, Neves, Horsley,
Vurek

Staff Present Francis

DOCUMENTS DEPT.

III. Consideration of Appeals

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A. 537 Shrader, Apt. 2

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The original Hearing Officer was Ruth Astle, the Reviewing Officer Josee DesMarais. In his appeal Landlord claimed he was called out of town on business and was therefore unable to attend the original hearing. As he failed to notify the Rent Board after he had properly notified of the hearing date, the Hearing Officer proceeded with the hearing.

The Reviewing Officer recommended denying the appeal.

MSD: That the appeal be accepted (Baird/Payne: motion withdrawn).

MSC: That the appeal be denied without prejudice to either party and that the Landlord be informed that he may file with the Real Estate Department and/or a Landlord's petition as to increases based on bonafide capital improvement expenses (Baird/Flynn: 3-1; Payne -No).

B. 2719 - 44th Avenue #4

The original Hearing Officer was Ruth Astle, the Reviewing Officer was Josee DesMarais. The decision was appealed by the landlord as to the tenant Mary Williams only. The issue is whether Ms. Williams should be allowed a \$10 per month reduction in rent because the fireplace can not be used.

The Reviewing Officer recommended that the appeal be accepted based on the fact there was no record of the proceeding.

MSC: That the appeal be accepted de novo (Baird/Flynn: 4-0).

In their consideration of whether or not to accept this appeal was the value of a hearing before the Board to consider its policy as to what

is considered a "substantial" decrease in services. The tenant is also to be notified in the notice of hearing that the burden of proof is on the tenant to show a decrease in services.

III. Approval of the Minutes of February 10, 1981

As to the minutes of February 10, have not yet been made available to the Board for review, this matter will be postponed until February 24, 1981.

IV. Communications

- A. A letter to the Board has been received from Hearing Officer D. J. Soviero requesting a clarification on a remand of case number B142-12. The issue in this case is whether the Ordinance is applicable to a holdover tenant.

MSC: That the Hearing Officer be instructed that there is a presumption that the Ordinance does not apply since the tenant has occupied the unit for over 32 days, and the landlord has continued to accept rent (Baird/Payne: 4-0).

MSC: That the following people be approved as new Hearing Officers: Donald W. Harbick, Spencer J. Raff, Mitchell Tannenboun, Delene Sheryl Wolf, Dennis C. Wishie, Sue C. Hestor, and Nancy H. Destefanis (Flynn/Baird: 4-0).

V. There is no Director's Report

VI. Consideration of Allegations of Wrongful Evictions

- A. There was discussion and review by the Board of the hearings held before Hearing Officers and of the Summary of Evidence presented to the Board in the following cases:

1) 2448 Clay

A hearing was held on February 6, 1981 before Hearing Officer Harriet Sheppard. Appearing was the tenant-petitioner Shelley Fern and landlord-respondent Ed Conner accompanied by Counsel Nancy Lenvin. The Hearing Officer felt that no evidence of wrongful eviction was presented.

2) 3907-26th Street

A hearing was held on February 5, 1981 before Hearing Officer Sam Haskins. Appearing was tenant-petitioner Damon Stein and Maurice Kemp, attorney, who appeared on behalf of the landlord William Simoncini. The landlord had given the tenant a notice to vacate 5 days subsequent to receiving a decision favorable to the tenant on a Tenant Petition for Arbitration. The Hearing Officer found a strong likelihood of a wrongful eviction.

MSC: That the Board adopt the findings of the Hearing Officer but take no action at this time (Flynn/Baird: 4-0).

3) 615-42nd Avenue

A hearing was held on this Report on February 6, 1981 before Hearing Officer Barbara O'Heara. Appearing were tenant-petitioners Richard and Deborah Valera and landlord-respondent George Gearey. The issue in this case was whether the landlord's successful recovery of possession under Section 37.9(a) (8) was in good faith. The tenants had moved based on a representation that the landlord's daughter intended to occupy the unit. Subsequent to the tenants vacating, the landlord offered to re-let the premises to the tenants. Due to the chronology of events the Hearing Officer found clearing and convincing evidence of a wrongful eviction.

MSC: That the Board not adopt the findings of the Hearing Officer and take no further action (Flynn/Payne: 4-0).

4) 1786 Fell

A hearing was held on February 10, 1981 before Hearing Officer Ed Corvi. Appearing was tenant-petitioners Jay and Dixie Kenney and Angelo Aguanno and John Laslo, landlord-respondents. The issue is whether the landlord's notice to vacate based on their intent to occupy was given in good faith. The Hearing Officer found that this was a clear case of no wrongful eviction - The landlords intended to occupy in order to obtain a loan qualification, but the loan was subsequently denied.

B. Report from Staff

- 1) As of February 17, 1981, 179 Reports of Alleged Wrongful Evictions have been received by the Rent Board office. 13 hearings have been scheduled before Hearing Officers, 7 have been heard.
- 2) Staff is investigating attempted eviction of 80 tenants by the Salvation Army of its Evangeline Residence.
- 3) Further complaints have been received by the tenants of 2055 California as to actions taken by their landlord.
- 4) Ray Sullivan is to contact the City Attorney with regard to services available to the Rent Board by the City Attorney's office.

VII. Old Business

- A. The Board would like a follow-up on the Sunshine Management letter.
- B. The Plaintiff's attorney for the tenants involved in Killian vs Hanes has filed an appeal to motion granting summary judgment. The City Attorney is looking into a possible intervention by the Rent Board in this case.

- C. There was a discussion by the Board of the Appeal review process, and also the availability of the tapes of the original hearing for the Reviewing Officer.
- D. Staff has contacted Antioch College with regard to obtaining interns to work on the indexing of Rent Board decisions.

VIII. Calendar Items

- A. The next regular meeting of the Residential Rent Stabilization and Arbitration Board will be February 24, 1981 at 5:30.
- B. There will be a special meeting on February 25, 1981 at 6:30.

IX. Adjournment

The meeting was adjourned at 7:10 p.m.

2/20/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 24, 1981 at 5:30 at the State Building 350 McAllister St. #1195

I. Call to Order

The meeting was called to order by President Cole-Chu at 5:34 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding; Flynn, Baird, Saunders
Alternates: Horsley, Payne
Commissioners not Present: Alternates: Bell, Neves
Staff Present: Hernandez

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III. Consideration of Appeals

A. 2199 Pacific Street

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The Original Hearing Officer was D. J. Soviero; the Reviewing Officer was Ruth Astle. The decision was appealed by the Tenant on the issue that the Landlord did not live up to his side of the stipulated agreement (ie: showing the Tenant copies of the PG&E).

The Reviewing Officer recommended that the appeal be accepted and remanded to a new Hearing Officer.

MSC: That the appeal be accepted and remanded to a new Hearing Officer. (Baird/Saunders: 4-0).
The Director informed the Board that a hearing with Tenants in the same building was coming up that week and we will try to add this one to those.

B. 295 San Carlos Avenue

The Original Hearing Officer was Susan Girtler; the Reviewing Officer was Ruth Astle. This petition is a very old petition with many postponements, hearings decisions and amendments. The Tenant is appealing the increase based on increased operation expenses. The Reviewing Officer recommended remanding to a new Hearing Officer.

MSC: Accept the appeal and remand to the same Hearing Officer to properly interpret the Rules and Regulations. (Flynn/Baird: 4-0).

IV. Consideration of Allegations of Wrongful Evictions

A. 779 Frederick St.

MSC: To adopt the findings of the Hearing Officer and take no further action. (Flynn/Saunders: 4-0).

B. 26 Highland Avenue:

MSC: To adopt the findings of the Hearing Officer and take no further action. (Flynn/Saunders: 4-0).

V. Approval of the Minutes of February 10 and 17, 1981

MSC: To approve the minutes of February 10, 1981 and February 17, 1981 with the following amendments. 1) The Board accepts the findings of the Hearing Officer on 2448 Clay Street and take no further action and 2) The Board accepts the finding of the Hearing Officer on 1786 Fell Street and take no further action. (Flynn/Baird: 4-0).

VI. Old Business

A. Appeal Review Process - The Board discussed the value of the Reviewing Officer process. In order to save monies, the Board voted to do its own review.

MSC: That all Commissioners get a copy of the appeal and determine whether to accept or deny appeals. (Flynn/Saunders: 4-0).
Commissioner Flynn excused himself 8:48 p.m.

B. The Board reviewed the letter sent by Executive Director to Sunshine Management.

VII. Director's Report

The Director reported on activities of the office, Hearing Officers meeting and issues coming before.

VIII. Appeal Hearing: 940-950 Bay Street

The Director informed the Board that this hearing will take place next week.

IX. Calendar Items

A. There will be a special meeting on February 25, 1981 at 6:30 p.m.

B. The next regular meeting of the Residential Rent Stabilization and Arbitration Board will be March 3 at 5:30 p.m.

X. Adjournment

The meeting was adjourned at 9:30 p.m.



MINUTES OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL RENTSTABILIZATION AND ARBITRATION BOARD, Wednesday, February 25, 1981 at 7:00 p.m. at the State Building, 350 McAllister St. #1195

I. Call to Order

The meeting was called to order by President Cole-Chu at 7:20 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding, Flynn, Horsley, Saunders
Commissioners not Present: Alternates: Bell, Neves, Baird, Vurek
Staff Present: Ricardo Hernandez, Susan Francis

III. Appeal Hearing

340 Church

After the establishment of the procedures for the conduct of the hearing, the Board heard arguments on the issue of whether the case should be heard De Novo on limited items on the appeal.

MSC: To deny the reconsideration on the De Novo hearing.
(Flynn/Saunders: 4-0)

Secondly, discussion on who was covered for the appeal consideration: two diverse points - was Apartment #2, a timely petition (i.e. 21 days late).

MSC: To include Apartment #2 (Flynn/Saunders: 4-0).

Appeal to establish the apartments covered on the appeal consideration - Apartments #1, 3, 4, 5, 6, 7, 8, 9, 11.

MSC: To include them. (Saunders/Flynn: 4-0).

Discussion then proceeded with the issues of Debt Services, Comparables, Increased Operations and Maintenance Cost.

MSC: To continue the hearing until March 18, 1981 at 4:30 p.m. (Saunders/Flynn: 4-0).

IV. Adjournment

The meeting was adjourned at 11:30 p.m.

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND-ARBITRATION BOARD, Tuesday, March 3, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

The meeting was called to order by President Cole-Chu at 5:30 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding; Saunders, Baird;
Alternates: Payne, Vurek

Commissioners not Present: Flynn; Alternates: Bell, Neves, Horsley

Staff Present: Ricardo Hernandez, Barbara O'Hearn

III. Consideration of Appeals

A. 490 Geary Blvd., Room 611

The Reviewing Officer was Harriet Sheppard, the Original Hearing Officer was Elaine Lee.

Both the Landlord and the Tenant appealed the decision concerning a rent increase. The Landlord contends that the Hearing Officer failed to make findings of fact and that the Hearing Officer abused her discretion by rendering a decision inconsistent with the conclusions of law. The Tenant contends that the monthly rental rate for the unit is not clearly stated in the decision and that sufficient evidence exists to support a finding of a decline in property services. The Reviewing Officer recommended that the parties be granted a de novo hearing on appeal.

MSC: That the Board grant a de novo hearing on this appeal. (Saunders/Baird: 3-0).

B. 555 O'Farrell Street:

The Reviewing Officer was Harriet Sheppard, the Original Hearing Officer was Robert Curran.

The Landlord appealed the decision concerning a rent increase. The Landlord claimed that he did not receive notice of the scheduled hearing and therefore did not appear. Additionally, he claimed that the rent was not increased, rather a "utility surcharge" was passed on.

The Hearing Officer recommended that the case be remanded to the Hearing Officer.

MSC: That the Board remand the case to the Hearing Officer. (Baird/Saunders: 3-0).

IV. Communications

The Board received a letter from the San Francisco Community Energy

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Coalition. John Katz, of the San Francisco Community Energy Coalition, along with other supporters of the Coalition, made a presentation to the Commissioners. The Coalition plans to set up a mediation program by which Landlords and Tenants can establish a plan for reducing PG&E costs. The Coalition requested a letter of recommendation from the Board in support of continued funding for the Coalition.

MSC: That the Board write a letter in support of continued funding for the San Francisco Community Energy Coalition, stressing it is one useful resource group along with PG&E and The San Francisco Department of City Planning. (Saunders/Baird: 3-0).

V. Appeal Hearings

A. 7421 Geary Blvd. #1, 3, 4:

The Board began hearing oral argument and accepting evidence on the appeal of this rent increase matter.

MSC: That the Board continue the hearing to March 24, 1981 during the regular meeting of the Board. (Baird/Saunders: 3-0).

B. 940-950 Bay Street:

The Board heard oral argument and evidence on this de novo hearing on appeal concerning a rent increase.

MSC: That the Landlord be considered a recent purchaser of the building. (Saunders/Baird: 3-0).

The hearing proceeded with the issues of comparables, debt services, increased operations and maintenance cost. The Board will issue a decision on this case and notify the parties by mail.

VI. Adjournment

The meeting was adjourned at 11:00 p.m.

3/9/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 10, 1981 at 5:30 p.m. at the State Building 350 McAllister St., #1195

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I. Call to Order

President Cole-Chu called the meeting to order at 5:45 p.m.

II. Roll Call

Commissioners Present:

Cole-Chu, Presiding; Flynn;

Alternates: Horsley, Payne

Commissioners not Present:

Baird, Saunders; Alternates: Bell, Neves, Vurek

Staff Present:

Ricardo Hernandez, John Blackburn

III. Consideration of Appeals

A. 1253- 16th Ave.- Tenant Appeal

420 - 20th Ave.- Landlord Appeal (both addresses)

There was discussion on the Tenant's appeal on the property located at 1253- 16th Ave. The Tenant contended that his base rent for terms of calculating future rental increases, should be \$251.13. The Landlord claimed it was \$258.66. Both the Original Hearing Officer and the Reviewing Officer reported that the base rent should be \$251.13, however, the Board disagrees with the Original Hearing Officer's application of the court order.

MSC:

That the Tenant's appeal be denied because of court order. (Flynn/Payne: 4-0).

There was discussion on the Landlord's appealing involving 1253- 16th Ave. and 420- 20th Ave. As to the former, this appeal involves a Preemptory Writ of Mandamus from the Superior Court of California, setting aside the November 4, 1979 decision of the Rent Board wherein the rent had been reduced. The Landlord contended that the Hearing Officer should have granted the full reimbursement back to November 1, 1979, as part of the Findings of Fact; Conclusions of Law dated January 29, 1981.

MSW:

That the Landlord's appeal be denied. (Payne/Flynn). Commissioner Payne withdrew the motion.

MSW:

That the Landlord's appeal be accepted on the record with the legal points to be argued but the facts to be on the record. (Flynn/Payne). Commissioner Flynn withdrew the motion.

As to the later appeal, the Landlord contended that he did not know how long the 5% reduction in rent for decreased housing services as per Hearing Officer Whitmer's decision of November 4, 1979, was to be in effect. The Landlord was told by the past Executive Director that the reduction would be enforced for one year.

The 5% reduction was reinstated on November 1, 1980 but the Tenant, Stephen Levin, petitioned the Board, and at the hearing of January 13, 1981, the reinstatement of the 5% reduction was denied.

MSC: That the Landlord's appeal on 16th Ave., be accepted on the record and let both parties speak to the legal issues regarding the Writ of Mandamus (Flynn/Horsley: 4-0).

MSC: That the Landlord's appeal on 20th Ave., be accepted de novo (Flynn/Horsley: 4-0).

B. 479 Fair Oaks #3

A Landlord petitioned. Landlord was not notified of hearing date and no parties appeared.

MSC: Accept the appeal and remand for a new hearing with the same Hearing Officer (Payne/Horsley: 4-0)

C. 300-310- 28th Ave. (6 units)

A Landlord petitioned to increase rents above the guidelines.

MSC: Accept the appeal on the issue of comparables, de novo, and otherwise on the record (Payne/Horsley: 4-0).

There was discussion on the issues of comparable rents, market rents, debt service, and variable rate mortgage rate increases, and how these issues apply to rent increases above the guidelines.

D. 455 Cole St. #2

The appeal was based on the computation of Utility pass-through surcharge.

MSC: Deny the appeal (Horsley/Payne: 4-0).

E. 1831 Pacific #202, 204, 303.

MSC: Accept and remand to the Original Hearing Officer on the record, with instructions to change the rent date back to December 1, or one year from the last rent increase, whichever is later, and check the record for capital improvements and allow them. (Flynn/Horsley: 3-1 with Cole-Chu dissenting).

IV. Approval of the Minutes of February 10, 25, and March 3

MSC: Approve minutes of February 10, 25, and March 3 as amended. (Flynn/Horsley: 4-0).

V. Communications:

1. A letter was received from the Board of Supervisors regarding the need

V. Communications:

1. A letter was received from the Board of Supervisors regarding the need to file Conflict of Interest Statements by April 30, 1981.
2. A letter was received from Supervisor Walker regarding roommates. There was discussion on the issue of roommates. The Executive Director was instructed to respond.
3. A copy of the letter to Mr. John Katz regarding the Energy Conservation Program was discussed. (see attached)
4. A letter was received requesting reconsideration of the Board's decision on 2735 McAllister Street.

MSC: Send Tenants a letter declining to reconsider the appeal with an apology for the delayed response. (Payne/Flynn: 4-0).

5. A letter was received from Dan Buchalter regarding new occupants and rent increases for Communications of March 17, 1981.
6. A letter was received from the Law Offices of Etcheverry and Clemens.
7. A letter was received regarding 300- 320- 28th Ave. and the conduct of the Hearing Officer. To file.
8. A request for an advisory opinion was received regarding a Master Lessee evicting to occupy, on the basis of "ownership" as a Master Lessee. The Executive Director will respond.

VI. Director's Report

- 1) There has been a substantial increase in the number of petitions filed in January and February, 1981. The Rent Board will utilize space at 50 Fell Street to conduct hearings on two days when 50 Fell Street is closed for semester break.
- 2) A new staff person, Joan Gabbs from Antioch College, is beginning to do the indexing project. The Executive Director requested the Board's support for a supplemental to do this project.
- 3) The budget for fiscal year 1980-81 has been submitted to the Controller. There was discussion on the line items. Salaries and fringes will be altered by the computer after the Salary Standardization Ordinance is approved by the Civil Service Commission. The Hearing Officers budget line item has been increased due to the increased case load.

There was some discussion on statistics of cases filed and heard.

- 4) The Executive Director, Susan Francis and Kathryn Pennypacker will meet with the Planning, Housing, and Development Committee to discuss amendments to the Residential Hotel Conversion Ordinance. The petition process will take approximately two years to complete (for each petition filed against possible conversion).

MSC: That the Rent Board support the high level budget request, as amended by the Salary Standardization Ordinance (Flynn/Horsley: 4-0).

- 5) The Neutral Commissioner Position has been filled by the Mayor. Rita Alviar is the new Commissioner. She will be sworn-in on March 25, 1981 at 11:30 a.m.

VII. Consideration of Allegation of Wrongful Evictions

Eviction hearings with accompanying rent increase hearings are working out well.

VIII. Old BusinessIX. New Business

- A. Redevelopment Agency Amendments- still pending
- B. RAP Amendments- still pending

X. Adjournment

The meeting was adjourned at 9:35 p.m.

3/19/81:ap



March 4, 1981

Mr. John Katz
San Francisco Community
Energy Coalition
1060 Tennessee Street
San Francisco, CA 94107

Dear Mr. Katz:

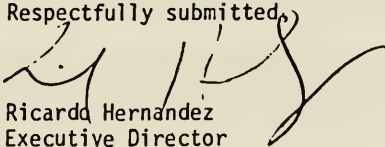
At its regularly scheduled meeting of March 3, 1981 the San Francisco Residential Rent Stabilization and Arbitration Board voted unanimously to send a letter of support to the San Francisco Community Energy Coalition on its works and its efforts to secure funding for a Tenant-Landlord Project

Whereas, we have been receiving from fifty to one hundred calls over the last six month on energy cost and utility pass-through and whereas, the agency is anxious to provide more resources to the community at large where-in they can be assisted in resolution of problems in an amicable, non-threatening environment and whereas, we feel that energy conservation is an important matter for all San Franciscans. The Board endorses this project as beneficial to our citizens.

As per our past history we will add your organization to our list of referral agencies and all those people who express interest in energy conservation will be referred to either your organization, PG&E or our City Planning Office - Energy Section.

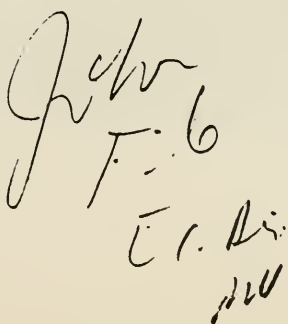
The Board has asked me to thank you for your presentation and wish you luck in your endeavors.

Respectfully submitted,


Ricardo Hernandez
Executive Director

RH/ap

cc: Board


John
F. 6
C. R. B.
11/11

San Francisco Community Energy Coalition

1060 Tennessee Street, San Francisco, California 94107

February 23, 1981

The San Francisco Rent Stabilization Board

Gentlemen,

The San Francisco Community Energy Coalition is developing a Tenant-Landlord Energy Conservation Project. We are asking your cooperation because when tenants get a utility cost rent increase, and want to do something about it, they generally contact the Rent Board. This is an ideal entry point for our projected program.

We are now applying for funding for the Tenant-Landlord Project. We would greatly appreciate a letter of support from the Rent Board. The letter might contain 1) a statement of need of San Francisco renters for conservation assistance, based on the approximate number and percentage of daily calls to the Rent Board about utility pass-through increases, and 2) your interest in referring these calls to an effective conservation program.

After receiving a referral, the Energy Project would

- 1) Contact tenant(s) and landlord to acquaint them with the Project and the energy cost savings possible.
- 2) Conduct a building audit.
- 3) Meet with landlord and tenants to work out a simple building energy plan.
- 4) Provide a workshop on energy conservation, including hands-on instruction in weatherstripping and other low-cost measures.
- 5) Provide individual counseling and instruction as necessary

The Project will stress no cost/low cost measures; mediate financial arrangements, preferably with landlords paying for materials and tenants providing labor; and will concentrate on low and moderate income housing.

The Community Energy Coalition is a joint effort of nonprofit community organizations with a commitment to an energy future that serves San Francisco's diverse communities. Active members include Asian Neighborhood Design, Bernal Heights Community Foundation, Mission Housing Development, and Potrero Hill Community Development Corporation. The Coalition is currently

conducting neighborhood energy conservation workshops and providing energy information under a small contract with the San Francisco Department of City Planning, with additional support from PG&E. This experience has provided us with considerable insight into the energy problems of renters... and suggests that a tenant-landlord energy conservation project is a logical next step.

Jon Katz

Jon Katz

for the
San Francisco
Community Energy Coalition

Phone: 285-2433



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 17, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

The meeting was called to order by President Cole-Chu at 5:45 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding; Flynn, Baird, Alternates: Payne
Commissioners not Present: Saunders; Alternates: Bell, Neves, Horsley, Vurek
Staff Present: Ricardo Hernandez

III. Consideration of Appeals

A. 1030 Larkin Street Nos. 8, 9, 17

The Original Hearing Officer was Mr. Ralph L. Coffman. The Landlord is appealing the decision on the issues of a) fairness to the parties, b) violations of the policies of the Ordinance, c) hardship, and d) debt services. After extensive deliberation, the Board decided that the Hearing Officer had not erred or abused his discretion.

MSC: That the Board deny the appeal (Baird/Payne 3-1; Flynn dissenting)

B. 427 Stockton Street #509

The Original Hearing Officer was Mr. Jerome Fishkin. The Landlord is appealing the decision on the issue of error of Hearing Officer in disallowing increase operation cost. The Board determined that there was no error in the Hearing Officer's decision.

MSC: That the Board deny the appeal (Baird/Payne 4-0)

IV. Approval of the Minutes of March 10

The Board decided to postpone the decision of approval of the minutes until March 24th and to ask staff for more details on the written minutes.

V. Communications:

The Board reviewed the letter from Mr. Edward Goodman regarding 1245 California. The Board declined to issue an advisory opinion on the matter since the matter must be discussed in a formal hearing format.

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MSC: To instruct the Executive Director to answer the letter with the decision of the Board (Baird/Payne 4-0)

(Commissioner Flynn excused himself from the next items).

The Board reviewed the letter from the Kauses regarding 130 Frederick Street. The Board declined to deal with the letter as it was too general in nature and did not provide specificity as to what was wanted. The Board instructed the Executive Director to answer the letter with an explanation as to why the letter could not be answered in its present format. Also the Tenants should be sent a copy of the letters.

VI. Director's Report

The Director requested approval of a new Hearing Officer (Ms. Alice Wicks).

MSC: To approve the new Hearing Officer (Baird/Payne 4-0).

Discussion followed on Board Office Activities, trends and budgets. Also update of 2055 California.

VII. Old Business

A. 940-950 Bay Street

The Reviewing Officer, Ms. Ruth Astle was instructed by the Board to prepare the background information for a decision to be rendered on March 24, 1981 by the Board.

B. The Board discussed the on-going intensive training of Hearing Officer

C. The Board discussed the status of the Indexing Project.

VIII. New Business

The President of the Board asked the Rent Board to co-sponsor a workshop to be held May 3, 1981 with the Barrister Club on the Residential Rent Ordinance to be held at Fort Mason.

MSC: To cosponsor the described workshop. (4-0)

IX. Adjournment

The meeting was adjourned at 8:30 p.m.

3/18/81:ap



MINUTES OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Wednesday, March 18, 1981 at 4:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

The meeting was called to order by President Cole-Chu at 4:48 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding, Saunders, Flynn; Alternate: Horsley
Commissioners not Present: Baird; Alternates: Bell, Neves, Vurek
Staff Present: Ricardo Hernandez

III. Appeal Hearing

A. 340 Church

The appeal hearing was continued from February 25, 1981.

The record was left open for two weeks period, if needed.

IV. Adjournment

The meeting was adjourned at 8:30 p.m.

3/19/81:ap

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, March 31, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

The meeting was called to order by President Cole-Chu at 5:33 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding; Flynn, Alviar, Saunders, Baird

Commissioners not Present: Alternates: Bell, Neves, Horsley, Vurek, Payne
Staff Present: Ty Mitchell, Barbara O'Hearn.

III. Consideration of Appeals

A. 610 Hyde St. #604

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In her appeal of the Hearing Officer's decision, Tenant claimed she was not notified of the hearing and that findings of fact are incorrect. The Commissioners, in reviewing the hearing file, noted that the mailing of a corrected Notice of Hearing was addressed to "Tenants et al" in the proof of service.

MSC: That the case be remanded only on the issue of the date on which Tenant commenced her tenancy. (Baird/Flynn: 5-0).

B. 70 Liberty St #5

Landlord appealed the Hearing Officer's decision on the basis that a previous hearing decision concerning the same street address was not consistent with this recent decision.

MSF: That the case be remanded to the same Hearing Officer with instructions to apply the previous hearing decision as to capital improvements. (Flynn/Alviar: 2-3; Flynn and Alviar voting aye).
MSC: That the appeal be denied. (Baird/Saunders: 3-2, Alviar and Flynn dissenting).

C. 490- 31st Ave. #205

Landlord appealed the Hearing Officer's Decision on the basis that he was not notified of the hearing. The Commissioners noted that the proof of service on the Notice of Hearing indicated the notice was sent to one of the other Landlords who also failed to appear at the hearing. Flynn suggested sending a copy of the Rules and Regulations on Utilities Pass-Through to the Landlord.

MSC: That the appeal be denied. (Saunders/Baird: 5-0).

D. 1019 Hampshire St. #1

Landlord appealed the Hearing Officer's decision on the basis of Tenant's previous rent increase occurring due to an additional Tenant occupying the premises. Landlord claims Tenant continues to have an additional Tenant occupying the premises. Tenant filed a response to Landlord's appeal stating that there had not been an additional occupant since December 1980.

MSW: That the appeal be denied (Baird/Alviar).
Baird withdrew the motion due to considerations of Landlord's possible entitlement to a 7% increase on the base rent effective August 1, 1980.

MSC: That the Board accept the appeal de novo. (Flynn/Saunders: 4-1 Baird dissenting).

IV. Appeal Hearings

A. 300-310 28th Avenue

This case was heard on the issue of comparable rents. Landlord argued that an amended petition conforming to the proof offered should be accepted rather than the originally proposed rents in the previous Landlord's petition. As to the Landlord's evidence concerning increased operating and maintenance expenses, the Board agreed to hold the hearing record open as follows: for Tenants up to 10 days after the postmarked date of mailing of this evidence to Tenants' attorney in order for Tenants to file a response if necessary; for Landlord - up to 10 days after the postmarked date of mailing of Tenant's response in order for Landlord to file a response. The hearing terminated at 9:36 p.m.

B. 1. 1253- 16th Avenue #3

Both Tenant and Landlord appealed the Hearing Officer's decision dated January 29, 1981. Landlord had obtained a Writ of Mandamus setting aside the Board's hearing decision dated November 4, 1979. The Board heard arguments from both Landlord and Tenant. At issue is whether or not the Writ as ordered is retroactive to the date of the original hearing.

MSW: That the 2% rent increase ordered be effective the date of the hearing, November 4, 1979. (Flynn/Saunders). The motion was withdrawn after some discussion concerning the fact that the amended Writ itself was not presently available for review.

The Board decided to postpone making a decision until next Tuesday after receipt and review of the Judge's amended Writ.

2. 1420- 20th Avenue #3, #6

Landlord appealed the Hearing Officer's decision dated November 4, 1979 as to the cut-off date of a rent reduction. This case was heard de novo on the issue of the previously ordered November 1979 rent decrease of 5% due to decreased services. Both Landlord and Tenant at apartment 3 testified as to housing services since the original November 1979 hearing.

MSC: That the Hearing Officer's decision of November 4, 1979 be amended as follows: Landlord is entitled to 5% (\$11.93) of the Tenant's base rent effective November 1, 1980. Tenant's payment amounts to \$11.93/month for five months and is payable to Landlord five days after receipt of the Board's Rent Decision on appeal. (Baird/Flynn: 4-1; Cole-Chu dissenting).

V. Approval of Minutes

MSC: That the Board's Minutes of February 24, 1981 be approved. (Flynn/Baird: 5-0).

VI. Communications

The Board received a letter dated March 27, 1981 regarding 940-950 Bay Street from attorney Harley C. Hardesty. The Board requested that a copy of this letter be enclosed in the Commissioners' packets for the next Rent Board meeting.

VII. Old Business

A. 940-950 Bay Street

The Board decided to reschedule this case for April 14, 1981.

B. 7421 Geary Street

The Board decided to reschedule this case for April 7, 1981 to be placed first on the agenda.

VIII. Calendar Items

A. 340 Church Street

The Board decided to schedule this case for April 7, 1981 following the 7421 Geary case.

IX. Approval of Decisions

A. 490 Geary #611

The Board unanimously adopted on motion by Cole-Chu, the approval of the rent decision on Appeal for this case.

B. 2719- 44th Avenue #4

The Board unanimously adopted on motion by Cole-Chu, the approval of the rent decision on Appeal for this case.

X. Adjournment

The meeting was adjourned at 10:45 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, April 7, 1981, at 5:00 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

The meeting was called to order by President Cole-Chu at 5:16 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding; Alviar, Saunders;
Alternates: Horsley
Commissioners not Present: Flynn, Baird; Alternates: Bell, Neves, Vurek,
Payne
Staff Present: Ricardo Hernandez, Barbara O'Hearn

III. Old Business

Commissioner Flynn appeared on the record at 5:27 p.m.
Commissioner Payne appeared on the record at 5:30 p.m.

A. 7421 Geary Street

MSC: That the rents be established as follows, effective
May 1, 1981:

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\$385/month for apt. 1;
380/month for apt. 3;
365/month for apt. 4.

(Horsley/Payne: 4-0, Alviar abstaining). Those
Commissioners voting on the motion were present for
the appeal hearing.

B. 340 Church Street

Commissioner Saunders appeared back on the record at 5:43 p.m. The
Board discussed the period used in calculating the utility pass through
and agreed it should be the period prior to the date that Tenants were
given notice of their rent increase.

MSC: That the maximum rent per unit be established effective
October 1, 1980 at \$380/month plus the
appropriate utility pass through. (Saunders/Flynn:
3-1, Cole-Chu dissenting, Alviar abstaining). Those
Commissioners voting on the motion were present for
the appeal hearing.

C. 1253- 16th Avenue

The Board reviewed the Superior Court's amended peremptory writ of
mandate.

MSC: That the 2% rate of rent reduction be effective retro-
active to the date of the hearing on the rent increase,
November 4, 1979. (Flynn/Saunders: 5-0).

- D. President Cole-Chu received a declaration requested by District Attorney, D. Moon and presented it to the Board. Each of the Commissioners voting on the case in question approved the declaration as to form.

President Cole-Chu left the meeting at 6:07.

Vice President Flynn thereafter presided.

IV. Appeal Hearing

A. 323 Willard North

The Board held a hearing on the Landlord's appeal concerning all evidence on the record to decide whether a rent increase can and should be denied and if a rent increase is denied, to decide the length of time such denial should remain in effect. The hearing commenced at 6:15 p.m. Present for the hearing were Robert Brady, Landlord, Jeff Strobel, Landlord's representative, Joel Eis and Valerie Megas, Tenants. At issue was the next allowable rent increase date. Landlord's representative argued that a rent increase should be allowed after twelve months since the last rent increase April 1, 1980. Tenant Eis argued that the Hearing Officer's decision to freeze the rents to December 1981 should be upheld because it was within the Hearing Officer's discretion and appropriate due to Landlord's retaliatory actions toward the Tenants. The hearing terminated at 6:27 p.m.

MSC: That the Board adopt the Hearing Officer's findings with the exception of freezing the rent to December 1981. (Saunders/Horsley: 4-0).

V. Consideration of Appeals

Commissioner Vurek appeared on the record at 6:30 p.m.

A. 2120 Pacific Avenue

This case is an appeal by both Landlord and one of the Tenants. Representatives of other Tenants filed a response to Landlord's appeal requesting that it be denied.

MSC: That the Board accept the appeal as to the issue of comparables and debt service and on the record all other issues. (Saunders/Alviar: 5-0).

Commissioner Flynn requested that copies of all Landlord comparables be sent to all Tenants at least three days prior to the hearing and copies of all Tenants' comparables be likewise sent to Landlord.

B. 1270 Pine Street #37

Landlord appealed the Hearing Officer's decision on the basis of his claim that he was not notified of the hearing date. The Board discussed a factual error as to the Hearing Officer's calculation of a 7% rent increase.

MSC: That the appeal be denied and the Hearing Officer amend the decision to reflect the correct amount of the 7% increase (\$308.16 rather than \$302.16). (Horsley/Saunders: 5-0).

C. 1800 Broadway

The Landlord appealed the Hearing Officer's decision on the basis that it included no break-down of the approved increase and that the increase was divided over a three-year period.

MSC: That Commissioner Vurek be excused from voting on this appeal. (Saunders/Horsley: 5-0).

MSC: That the appeal be granted de novo. (Saunders/Horsley: 4-0).

VI. Approval of Minutes

MSC: To adopt the minutes of the March 31, 1981 Board meeting. (Saunders/Alviar: 5-0).

VII. Communications

- A. The Board received a notice of a public meeting sponsored by the Coalition of the Truly Needy which requests that a speaker from the Rent Board attend.
- B. The Board received a copy of President Cole-Chu's letter to Mayor Feinstein informing her of his resignation from his position with the Rent Board.

VIII. Director's Report

Mr. Hernandez noted that almost all rent increase petitions filed this month are from petitioners who have filed once or twice before the Board.

Mr. Hernandez discussed the Hearing Officer's meeting on April 3, 1981.

Mr. Hernandez stated that the Rent Board will be picking up two of its staff members with funds from the Office of Community Development.

IX. Calendar

The Board requested that a discussion of the Rent Board's future be put on the agenda for next week, and the appeal hearings granted be put on separate agendas for the following two weeks.

X. Adjournment

The meeting was adjourned at 7:41 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 14, 1981, at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

The meeting was called to order by President Cole-Chu at 5:33 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding; Flynn; Baird, Saunders;
Alternates: Payne, Horsley, Vurek
Commissioners not Present: Alviar; Alternates: Neves
Staff Present: Ricardo Hernandez, Barbara O'Hearn, Rick Vitrano, Susan Francis

III. Presentation of Certificates

Ricardo Hernandez presented certificates of service to each of the Commissioners.

IV. Consideration of Appeals

A. 40 Buchanan

MSF: That consideration of this appeal and that of 1570 Hampshire be continued for one week pending a report by staff as to what evidence, if any, appellants would submit if the Board were to remand these cases. (Baird/Flynn: 1-3, Baird approving).
MSC: To deny this appeal. (Saunders/Flynn: 3-1, Baird dissenting).

B. 1570 Hampshire

MSC: To accept the appeal and remand the case for a new hearing before the original Hearing Officer. (Flynn/Saunders, 4-0). President Cole-Chu requested a direction to the Hearing Officer to consider Civil Code Section 827 and the effective date of the rent increase.

C. 400 Duboce

MSC: To deny the appeal and order the stay lifted. (Flynn/Baird: 4-0). The Board noted that the effect of their motion would be to affirm the original decision.

D. 610 Leavenworth

MSC: To excuse Commissioner Flynn from voting on this case. (Cole-Chu/Saunders: 4-0).

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MSC: To deny the appeal (Baird/Saunders: 3-0).

Commissioner Horsley left the meeting at 6:35 p.m.

V. Appeal Hearing

A. 1019 Hampshire St. #1

The Board held a hearing on the Landlord's appeal of a Hearing Officer's decision ordering Tenant's rent at \$237/month effective December 1, 1980 and finding that the Landlord's charge of \$50/month for an additional person was a "rent increase" effective December 1, 1980 when the additional person moved out. Present at the appeal hearing were Joseph Brajkovich, Landlord, Minh Van Pham, Tenant, and Tenant's friend. The hearing began at 6:37 p.m. and terminated at 7:20 p.m.

MSF: That the rent be established at \$237/month plus 7% effective December 1, 1980 but that the anniversary date of rent increase be August 1, 1980. (Saunders/Baird: 2-2, Cole-Chu and Flynn dissenting).

MSC: That the decision of the Hearing Officer be set aside and that the rent increase to \$287/month be effective April 1, 1981 and that the Tenant may have up to three occupants at any time. (Flynn/Saunders: 3-1, Baird dissenting).

VI. New Business

The Board discussed the public information brochure concerning the Rent Board and requested by the Rent Board.

MSF: To delete certain non-governmental agency phone number from the brochure. (Saunders/Flynn: 1-3, Saunders affirming).

MSC: That President Cole-Chu and Executive Director, Ricardo Hernandez, meet to discuss the addition of certain names to the telephone list. (Baird/Flynn: 4-0).

MSC: That all names on the brochure be deleted except for the Mayor's. (Saunders/Flynn: 2-1, Cole-Chu dissenting; Baird abstained).

VII. Approval of Decisions

MSC: To postpone approval of this decision on 340 Church until next week's Board meeting and approve the decisions on 420- 20th Ave., 1253- 16th Ave., 323 Willard North, and 7421 Geary, subject to technical changes by President Cole-Chu. (Flynn/Saunders: 4-0).

VIII. Consideration of Appeal Decision

A. 940-950 Bay

MSC: That this item be first on the agenda for the Board's meeting on April 21, 1981.

IX. Approval of Minutes

MSC: That the minutes of April 7, 1981 be approved. (Saunders/Flynn: 4-0).

X. New Business

MSC: On the request of the President to hold a public hearing on clarification of the Ordinance and Rules and Regulations with the Department of Real Estate. (Baird/Flynn: 4-0).

The Board decided to hold a special meeting on Saturday, May 2, 1981 at 9:30 a.m., to discuss the Board's ability to administer the Ordinance and to discuss any suggestions for changes.

The Board decided to schedule a dinner for Hearing Officers on May 8, 1981.

The Board stated that the Commissioners' conflict of interest statements are due on April 30, 1981.

XI. Communications

The Board received a letter from the attorney for the Tenants of 1800 Broadway requesting a postponement of the appeal hearing scheduled for April 21, 1981.

MSC: To postpone the appeal hearing on 1800 Broadway to a date after April 30, 1981. (Flynn/Baird: 4-0).

The Board received new forms for capital improvements calculations and for notice of petition withdrawal.

MSC: To approve the forms. (Flynn/Baird: 4-0).

The Board noted that the resignation of former Commissioner Bell was effective April 7, 1981.

XII. Adjournment

The meeting was adjourned at 9:40 p.m.

City and County of San Francisco

Residential Rent Stabilization and
Arbitration Board



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 21, 1981, at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

The meeting was called to order by President Cole-Chu at 5:40 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding; Alviar, Saunders
Alternates: Payne
Commissioners not Present: Flynn, Baird
Alternates: Horsley, Neves, Vurek
Staff Present: Hernandez, O'Hearn

Commissioner Baird appeared on the record at 5:57 p.m.

III. Consideration of Appeal Decisions

A. 300-310 28th Avenue

The Board reviewed the latest correspondence from representatives of the parties.

MSW:

That the rents be established as follows:

\$250 for two-room apartments;
\$300 for four-room apartments;
\$350 for five-room apartments. (Saunders/Alviar).

President Cole-Chu noted for the record that this case involves a request by the landlord to amend the original petition as to proposed rents. The Board noted that apartments 300, 302, 306 and 308 have garages. The Board also noted the varying lengths of occupancy by the tenants and the range of comparables presented at the hearing.

Commissioner Baird volunteered to review all the evidence presented in this case and prepare a report for the next Board meeting.

B. 940-950 Bay

Commissioner Baird volunteered to do the same on this case. The Board noted that the building consists of 23 units containing both two and three-room apartments. The sense of the Board in considering the range of comparables presented was to look at the high rents submitted by tenants and the low rents submitted by landlord, as well as which units include garages. The Board agreed to schedule consideration of this decision at the beginning of next week's agenda.

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III. Consideration of Appeals

A. 2402 California Street

This case is a landlord's appeal of a Hearing Officer's determination that the installation of a decentralized heating system and requirement that the tenants pay the utility costs constitutes a decrease in services warranting a 10% reduction of tenant's rent.

MSC: To accept the appeal de novo before the Board.
(Saunders/Alviar: 4-0).

B. 228 Diamond #102, 303, 103

The landlord appealed the Hearing Officer's decision because he was unable to attend the hearing due to prior business appointments.

MSC: To deny the appeal. (Saunders/Baird: 4-0).

C. 786 Geary #403

The landlord appealed the Hearing Officer's decision on the basis that he did not appear at the hearing because he understood that the tenant agreed to the rent increase.

MSC: To accept the appeal and remand the case for a new hearing before the original Hearing Officer.
(Saunders/Baird: 4-0).

D. 229- 21st Avenue #3

The landlord appealed the Hearing Officer's decision which found a decrease in services for tenant warranting a denial of the proposed rent increase. The decrease in services were a result of the landlord's new heating system causing the tenants to pay utilities previously paid by the landlord under the rental agreement.

MSC: To deny the appeal. (Saunders/Alviar: 4-0).

V. Approval of Minutes

MSC: To adopt the minutes of April 14, 1981 as corrected on page 2. (Baird/Cole-Chu; 4-0).

VI. Approval of Decisions

- A. 340 Church Street
- B. 1819 Hampshire Street
- C. 420- 20th Avenue #3
- D. 1253- 16th Avenue #3 and #6

MSC: To approve all decisions for the above cases,
(Baird/Saunders: 4-0).

VII. New Business

A. Public Hearing

No witnesses were present for the public hearing on proposed amendments to the Rules and Regulations.

MSC: To adopt the Rules' amendments as proposed with the deletion of the last part of both section 4.10(d) and 6.10(i) and all of 6.10(j).
(Saunders/Alviar: 4-0).

B. "Perspective" newsletter

The Board discussed the first issue of a staff newsletter for the Board's Hearing Officers. Also discussed was a meeting for new Hearing Officers scheduled on Thursday, April 23, 1981.

VIII. Calendar Items

An appeal hearing on 2120 Pacific is scheduled before the Board next Tuesday. The appeal hearing on 2402 California granted by the Board will be scheduled for the May 5, 1981 Board meeting.

IX. Communications

The Board received a letter from an attorney representing three tenants in an apartment complex owned by Hastings College of Law. The letter requested information as to whether the building is covered under the Ordinance. The Board declined to make such a determination as the tenants had not filed petitions with the Board.

X. Adjournment

The meeting was adjourned at 8:05 p.m.

4/23/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 28, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

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I. Call to Order

The meeting was called to order by President Cole-Chu at 5:43 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding; Flynn, Saunders

Alternate: Horsley

Commissioners not Present: Alviar, Baird; Alternates: Neves, Payne, Vurek

Staff Present: Hernandez, O'Hearn

Commissioner Vurek appeared on the record at 6:15 p.m.

III. Consideration of Appeal Decisions

The Board discussed the rents set forth in the proposed decisions prepared by Commissioner Baird.

A. 940-950 Bay St.

MSW: To establish rents set forth in the proposed decision as amended by President Cole-Chu. (Saunders/Cole-Chu)

MSC: To postpone the decision to the next meeting of the Board on Saturday, May 2, 1981 at 9:30 a.m. (Saunders/Flynn: 4-0)

B. 300-310 28th Avenue

Commissioner Horsley excused herself from voting on this case as she was not present at the appeal hearing.

MSC: To establish rents set forth in the proposed decision as amended by President Cole-Chu:

Apartment #300	\$320.00
Apartment #302	300.00
Apartment #304	240.00
Apartment #306	350.00
Apartment #308	370.00
Apartment #310	250.00

(Saunders/Cole-Chu: 3-0)

The Board discussed proposed dates on which the rent increases would take effect.

MSC: That the established rents shall be effective March 1, 1981. (Saunders/Flynn: 3-0)

MSC: That the retroactive rent increase payments be payable over a three-month period following approval of the written decision. (Saunders/ Flynn: 4-0).

IV. Appeal Hearing

President Cole-Chu left the meeting at 7:00 p.m. Thereafter Vice-President Flynn presided over the Board meeting.

A. 2120 Pacific

This is a case accepted on appeal for de novo hearing as to the issues of debt service and comparables. The hearing began at 7:15 p.m. Both parties and representatives were present. Landlords' attorney offered evidence including an analysis of comparables. Tenants' representatives objected to the evidence as the Board had directed that all parties' comparables be submitted to each other three days before the hearing. Landlords' attorney argued that the evidence was basically a reformulation of previously existing information. The Board resolved to proceed with the hearing allowing the Landlords' case to be presented first and the Tenants' case second.

A recess was taken at 9:00 p.m., during which time, the Board considered other appeals scheduled on the agenda.

The hearing reconvened at 9:30 p.m. The parties continued to present their cases.

Commissioner Saunders left the Board meeting at 10:12 p.m.

Other evidence presented at the hearing concerned the issue of debt service.

The hearing terminated at 10:30 p.m.

V. Consideration of Appeals

A. 1750 Mission Street

The Landlord appealed the Hearing Officer's decision which found that there has been a decrease in housing services because the conditions have improved and that the elevator was never working.

MSC: To accept the appeal and remand to the same Hearing Officer to determine if the conditions have improved in order to reinstate the rent increase and to rescind the decrease for the elevator since it was not a decrease in housing services. (Horsley/ Saunders: 4-0).

B. 186A Duncan Street

The Tenant appealed the Hearing Officer's decision to grant the Landlord the right to enforce the Tenant's agreement to pay the PG&E bills.

MSC: To deny the appeal (Horsley/Saunders: 4-0)

C. 344 Ellis Street

The Landlord appealed the Hearing Officer's decision to limit the future rent increase to 3 percent.

MSC: To accept the appeal and remand to the same Hearing Officer to only consider eliminating the 3 percent rent limit for the next twelve month increase. The Board, however, finds the rest of the decision of excellent quality. (Horsley/Vurek: 4-0).

D. 636 Octavia Street

The Landlord appealed the Hearing Officer's determination for a decrease in housing services and the non-attendance by Landlord prejudiced their presentation.

MSC: To accept the appeal on the record for a short presentation at the Board for possible reinstatement of the regular rent. (Saunders/Horsley: 4-0).

V. Executive Director's Report

The Director informed the Board of the new budgets for the next fiscal year, the OCD project, the new staff at the Rent Board, and the changes in hearing procedures.

VI. Calendar Items

The Board will have a special meeting on May 2, 1981 at 9:30 a.m. to discuss the future of the Rent Board. Also the 940-950 Bay Street decision will be finished at that time. At the next regular meeting on Tuesday, May 5, the Board will hear the 2402 California Street appeal.

VII. Approval of Minutes

The Board approved the minutes of April 21, 1981 Board meeting

VIII. Adjournment

The meeting was adjourned at 11:00 p.m.

City and County of San Francisco

Residential Rent Stabilization and Arbitration Board



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 5, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Cole-Chu called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, Presiding; Flynn; Baird;
Alternate: Vurek
Commissioners not Present: Alviar; Saunders; Alternates: Horsley;
Neves; Payne
Staff Present: Hernandez; O'Hearn

Commissioner Payne appeared on the record at 5:35 p.m.

III. Consideration of Appeal Decision

A. 2120 Pacific

This appeal hearing was before the Board on April 28, 1981 on the issues of debt service and comparables.

MSC: That the Landlord has born the burden of proof on comparables and to establish the monthly rents as follows, plus the amount of utility pass-through:

Apts. 103 and 202	\$350
Apt. 302	310
Apt. 307	400
Apt. 404	375

(Flynn/Baird: 3-0).

The Board directed the staff to prepare a proposed decision and check the date for which the rent increase was originally noticed.

IV. Consideration of Appeals

A. 2199 Pacific Ave. #301

Landlord appealed the Hearing Officer's decision on the basis that it conflicted with a previous case concerning the same address and that it precluded Landlord from imposing a utility pass-through until January 1, 1982.

MSC: To accept the appeal and remand the case on the record to the same Hearing Officer with instructions that the utility pass-through is not considered part of the base rent, and to rescind the January 1, 1982 limitation. (Payne/Flynn: 4-0).

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B. 435 Hayes Street #34

Landlord appealed the Hearing Officer's decision on the basis that a rent increase within the guidelines was disallowed and Landlord's representative did not appear at the hearing because increases over the guidelines were rescinded prior to the hearing by notice to the Tenant and the Rent Board.

MSC: To accept the appeal and remand the case to a new Hearing Officer. (Payne/Baird: 4-0).
The Board also noted that the seven percent rent increase should be allowed effective April 1, 1981.

C. 2655 Polk Street

Tenants appealed the Hearing Officer's decision on the basis that computation of the utility pass-through was based on costs to the previous owner and additional facts have arisen concerning Landlord's notice of two more rent increases subsequent to the hearing, and Landlord's attempts to evict Tenants who participated in the hearing.

MSF: To deny the appeal without prejudice to the Tenants other remedies. (Flynn/Cole-Chu: 2-2, Baird and Payne dissenting).

MSC: To deny the appeal with instructions to the Tenants that the denial is without prejudice to their right to file petitions regarding any rent increases subsequent to their original petitions. (Payne/Baird: 4-0).
The Board also requested the staff to take action on the evictions.

D. 737 Ashbury Street #2

Tenant appealed the Hearing Officer's decision dated March 31, 1981 which found the premises exempt from the Ordinance due to being within a designated Rehabilitation Assistance Program (RAP) area. Tenant, in his appeal, presented evidence that the premises were not covered under RAP.

MSC: To accept the appeal and remand the case to the original Hearing Officer. (Payne/Baird: 4-0).

E. 2465 Chestnut

Tenants appealed the Hearing Officer's remand decision in their previous appeal. Tenants claimed discrepancies in documentation of operating expenses. Landlord opposed the appeal because the case already had been going on for ten months.

MSC: To deny the appeal. (Flynn/Payne: 4-0).

F. John Muir Drive Apartments

Landlords appealed the Hearing Officer's decision finding a ten percent rent reduction due to decreased services. Landlords claimed that such reduction was not based on fact, and that such decreased services do not constitute a significant reduction in the value of Tenants' tenancy. Tenants' attorney opposed the appeal on the basis that substantial evidence on the record supports the Hearing Officer's decision.

Both Landlords' and Tenants' counsel were present for consideration of the appeal. The Commissioners disclosed prior acquaintances with counsel who stated they had no objections to the Commissioners' consideration of the case. The Board discussed potential procedures in the event the appeal were to be granted. President Cole-Chu noted that the defect of the decision is that it does not break down the percentage for specific services and does not provide for reinstatement of the regular rent. Commissioner Flynn noted that the decision is basically based on security and maintenance.

MSF: To have the Tenants' attorney submit, within three weeks, to Landlords' attorney a statement

- 1) of decreased services alleged to have occurred, and
- 2) of the witnesses to testify thereon, and allow Landlords' attorney to respond within three weeks in a similar fashion, and then allow Tenants' attorney one week to make any rebuttal, at which time the Board would reconvene its consideration of the appeal. (Baird/Flynn: 1-3, Baird assenting).

MSC: To accept the appeal de novo subject to procedural guidelines agreed to by both parties. (Flynn/Payne: 4-0).
The guidelines include the parties' exchange of lists of their witnesses. The hearing will be scheduled for the regular Board meeting on June 2, 1981. The staff is directed to send notice to all the Tenants involved in the case.

V. Appeal Hearing

A. 2402 California Street #501, 510

The Board accepted this appeal for de novo hearing. The main issue concerns an alleged reduction in housing services based on Landlords' installation of a decentralized heating system and change-over from Landlords' paying of heat to Tenants' paying the utilities.

Commissioner Flynn was excused from hearing this appeal. The hearing began at 7:30 p.m. Present were Tenants, Robert Manor and Dana Ivans;

representing Landlords were Robert Berner, Vicki Gray, and Charles Coffman. The parties submitted evidence and presented arguments. Tenant Manor's lease agreement specifies that the Landlord is to provide heat. Tenant Ivans submitted photos of the change-over in heating systems and stated he had been without heat since mid-November. Landlords' representatives submitted evidence of the costs of the change-over, but indicated it was Landlords' intent not to pass on such costs to the Tenants. The hearing terminated at 9:00 p.m.

The Board commented on possible outcomes of the case and discussed the quality of heating provided to Tenants.

MSF: To continue the decision for one week pending a city inspection on the adequacy of Tenants' heating. (Baird/Payne: 1-2, Baird assenting).

MSC: To establish the monthly rents at \$428 and \$294 for Tenants Manor and Ivans respectively, effective for one year from the date for which the rent increase was previously noticed, and on the condition that Landlords not seek to pass on the capital improvement costs to Tenants. (Payne/Baird: 2-1, Cole-Chu dissenting).

VI. Old Business

A. 7421 Geary Blvd. #1, 3, 4

Members of the Board received a letter from Tenants on April 28, 1981 concerning the appeal decision on their case which was approved by the Board on April 14, 1981. Tenants claim reimbursement for rent increases paid during the six-month period when the Hearing Officer's decision remained in effect, before its reversal by the Board.

MSC: To have the staff send a letter to all parties notifying them that the case will be scheduled on the agenda in two weeks for reconsideration of the appeal decision. (Baird/Payne: 3-0). The staff is also directed to send a copy of Tenants' letter to Landlords' attorney and invite her to respond.

VII. Approval of Minutes

The Board agreed to postpone approval of the April 28, 1981 minutes, as the Commissioners were not present for the entire Board meeting.

VIII. Communications

President Cole-Chu received a copy of a letter and attachments dated April 27, 1981 and addressed to Mr. and Mrs. Frank Latorre from Purita Gonzaga. President Cole-Chu requested the staff to summarize the correspondence and determine whether it is related to a Rent Board case.

IX. New Business

The Board discussed the high volume of phone calls and public requests to the Rent Board office. Commissioner Baird suggested scheduling a special meeting for further discussion.

The Board also discussed the proposal of a seven-member Board.

X. Approval of Decision

A. 940-950 Bay Street

MSC: To approve the written decision subject to clerical corrections by President Cole-Chu. (Baird/Payne: 3-0).

XI. Adjournment

The meeting was adjourned at 10:25 p.m.

4/7/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, May 12, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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I. Call to Order

President Cole-Chu called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, presiding; Baird; Alternate: Payne

Commissioners not Present: Alviar; Flynn; Saunders; Alternates: Horsley;
Neves; Vurek

Staff Present: Hernandez; O'Hearn; Gabbs

III. Consideration of Appeals

A. 1896 Pacific Avenue #804

Both the Landlord and the Tenants appealed the Hearing Officer's decision which found that the notice of rent increase was void and of no effect and that Tenants' expenditure of \$10,000 to improve the unit was part of the base rent.

MSF: To accept the appeal de novo. (Payne/Cole-Chu:
2-1, Baird dissenting; failed for lack of majority
vote by Board)

The Board later again discussed consideration of this appeal.

MSC: To accept the appeal de novo. (Payne/Cole-Chu:
3-0).

B. 1225 Oak Street #2 and #4

Landlord appealed the Hearing Officer's decision on Landlord's petition for rent increases. Landlord claimed prejudice on consolidation of the building with other buildings and claimed error on the anniversary date of one Tenant's rent increase.

MSC: To accept the appeal and remand to the original
Hearing Officer with instructions to consider
when the next rent increase to Tenant Mitchell
can be imposed and the exact amount of rents for
units 2 and 4. (Baird/Payne: 3-0).

C. 6340 Geary Blvd. #16

Landlord appealed the Hearing Officer's decision on the basis that certain findings concerning eviction were not an issue on Tenant's petition. The Board noted that such findings had, at most, and advisory effect.

MSC: To deny the appeal. Baird/Payne: 3-0).

D. 427 Linden Street

Tenants appealed the Hearing Officer's decision which found Landlord entitled to more rent than originally requested.

MSC: To accept the appeal and remand to the original Hearing Officer with instructions to apply the CPI to the total former operating and maintenance expenses, and in no event to award more rent than originally requested by Landlord. (Payne/Baird:3-0).

IV. Introduction of New Staff

The Director introduced to the Commissioners Joanne Gabbs, who is working on the project to index decisions by the Rent Board.

V. Communications

The Board received a letter dated May 9, 1981 from Neil Buckley, for the Tenants at 300-310 28th Avenue concerning the decision on the appeal. The Board decided to schedule the matter on next week's agenda and postpone approval of the decision.

VI. Appeal Hearing

636 Octavia Street

The Board discussed reasons for not hearing this appeal, including the fact that none of the Commissioners who voted to accept this appeal were present for the hearing.

MSF: To remand the appeal to the original Hearing Officer. (Baird/Cole-Chu 2-1, Payne dissenting; failed for lack of majority vote by Board.)

MSC: To remand the appeal to a new Hearing Officer. (Baird/Cole-Chu: 3-0).

VIII. Approval of Minutes

MSC: To approve the minutes of May 5, 1981 as amended by the Commissioners. (Baird/Payne: 3-0).

The Board agreed to postpone approval of the April 28, 1981 minutes, as the Commissioners were not present for the entire Board meeting.

IX. Approval of Appeal Decision

The Board approved the appeal decision on 2402 California St. #501 and 510 as corrected by President Cole-Chu.

X. Director's Report

The Board discussed proposed changes in the Rules and Regulations.

- MSC: To prepare language for public hearing proposing a Rule Amendment to section 6.10(b). (Baird/Payne: 3-0).
- MSF: To prepare language for public hearing proposing repeal of section 6.10(c). (Baird/Payne: 1-2, Baird assenting).
- MSC: To reconsider the previous motion. (Baird/Payne: 3-0).
- MSC: To prepare language for public hearing proposing repeal of section 6.10(c). (Baird/Payne: 2-1, Cole-Chu dissenting).

XI. New Business

The Board ordered the Director to have a memorandum prepared as to the following:

- 1) Under the Ordinance, when is a Landlord required to give notice of a rent increase, following the filing of a Landlord's petition.
- 2) What constitutes the legal requirements of a notice of rent increase.
- 3) What are the legal methods by which such notice can be given.
- 4) Does the Board have any authority to determine sufficiency of such notice or of its service.

XII. Calendar Items

The Board agreed to discuss the composition of Commissioners, extension of the Ordinance and related matters.

The Board will hear the appeal on 1896 Pacific Ave. #804 on May 26, 1981, following the 1800 Broadway hearing.

XIII. Adjournment

The meeting was adjourned at 10:05 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, May 19, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Cole-Chu called the meeting to order at 5:45 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, presiding; Flynn;
Alternate: Payne
Commissioners not Present: Alviar; Baird; Saunders;
Alternates: Horsley; Neves; Vurek;
Staff Present: Hernandez; O'Hearn

Commissioner Baird appeared on the record at 6:02 p.m.

III. Consideration of Appeals

A. 126-128 Carl St.

Four Tenants filed appeals of the Hearing Officer's decision which found the Landlord's rent increases for seven units justified on the basis of debt service and comparables. Tenants' appeals mainly contested error as to comparables and as to the finding of a seven percent increase in addition to the increase based on comparables. Some Tenants also claimed hardship in complying with the decision's order of a more than 100% rent increase.

MSF: To accept the appeal and remand the case on the record to the original Hearing Officer with instructions to amend the findings so as to delete the 7% increase. (Flynn/Payne: 2-2, Baird and Cole-Chu dissenting).

IV. Old Business

A. 7421 Geary Blvd. #1, 3, 4

The parties of this appeal were present for consideration of issues raised in Tenants' letter dated April 27, 1981. The main issue concerned the Board's appeal decision which vacated the Hearing Officer's decision, but did not specifically grant Tenants a refund of rent increases paid pursuant to the Hearing Officer's decision. The appeal decision established new rents effective May, 1981.

MSC: To amend the appeal decision in order to establish the rents effective April 1981 and to credit over the next five months the previous rent increases paid pursuant to the Hearing Officer's decision. (Flynn/Baird: 3-1, Payne dissenting).

B. 300-310- 28th Avenue

The parties of this appeal were present for consideration of issues raised in Tenants' letter dated May 9, 1981. Tenants' contentions concern the amount of rent increase granted by the Board, Landlord's proposed security deposit, Landlord's proposed rental agreement based on the Board's decision not yet issued, and the Board's granting a retroactive rent increase notwithstanding the fact that Landlord did not provide Tenants with previous written notice of such increase.

C. 324 Larkin Street

Attorney, Lynda Martyn, representing Tenants in this building owned by Hastings College of Law, was present to discuss issues raised in her letter of April 17, 1981 to the Commissioners. The Board previously discussed the letter at its regular April 21, 1981 meeting. Ms. Martyn requested the Board to make a policy decision as to whether the building is covered under the Rent Ordinance.

MSC: To notify counsel for Landlord that the Board will consider the issue raised and allow a written response to the Board by June 2, 1981, with a copy to Tenants' attorney, who may in turn respond within five days, after which the Board will make its determination. (Baird/Flynn: 4-0).

V. Consideration of Appeals (Continued)

B. 76 Peralta

Landlord appealed the Hearing Officer's decision which denied Landlord's proposed rent increase of 7% plus capital improvements, such denial was based, in part, on Landlord's failure to make certain repairs.

MSC: To deny the appeal (Baird/Flynn: 4-0).

C. 1930 Hyde Street #1

Tenant appealed the Hearing Officer's decision which found Landlord's proposed 12% rent increase justified. Tenant claimed housing conditions below standard should prevent Landlord's entitlement to such increase. The Board noted errors in computation of both PG&E pass-through costs and operating and maintenance costs.

MSC: To accept the appeal and remand the case to a new Hearing Officer. (Baird/Flynn: 3-1, Cole-Chu dissenting).

D. 1230 Hayes Street #3

Tenant appealed the Hearing Officer's decision which allowed an increase over the guidelines based on operating and maintenance costs. Original notice of the rent increase and Tenants' contentions concerned the increase based on PG&E increases.

MSC: To accept the appeal and remand the case to a new Hearing Officer. (Flynn/Baird: 3-1, Cole-Chu dissenting).

E. 123½ Duboce

Landlord's agent appealed the Hearing Officer's decision which found Tenant entitled to a \$10/month reduction in rent based on decreased services in the manner of a neighbor's loud record player.

MSF: To accept the appeal De Novo. (Payne/Cole-Chu: 2-2, Baird and Flynn dissenting).

MSC: To accept the appeal and remand the case to the original Hearing Officer with instructions as to 1) whether Landlord was previously notified of Tenants' complaints about noise, 2) Landlord's attempt to correct the problem, and 3) the condition on which any rent reduction, if found, would be reinstated. (Flynn/Baird: 3-1, Payne dissenting).

A. 126-128 Carl Street (reconsidered)

MSC: To reconsider the prior motion on this case. (Flynn/Payne: 3-1, Baird dissenting).

Commissioner Baird offered an amendment to the original motion to instruct the Hearing Officer to consider hardship.

MSF: To accept the appeal and remand the case on the record to the original Hearing Officer with instructions to amend the findings so as to delete the 7% increase and to consider hardship. (Baird/Payne: 2-2, Cole-Chu and Flynn dissenting).

MSC: To reconsider the original motion. (Payne/Flynn: 3-1, Baird dissenting).

MSC: To accept the appeal and remand the case on the record to the original Hearing Officer with instructions to amend the findings so as to delete the 7% increase. (Payne/Flynn: 3-1, Baird dissenting).

VI. Approval of Minutes

Commissioner Baird left the meeting at 8:55 p.m.

MSC: To approve both the minutes of May 12, 1981 as corrected by Commissioner Payne and of April 28, 1981. (Flynn/Payne: 3-0).

VII. Communications

The Commissioners received a letter dated May 5, 1981 from Tenants' attorneys regarding the appeal accepted for 1800 Broadway. The letter requests the Board to reconsider its decision to accept the appeal and to reject the appeal on the ground that it was not timely filed.

MSC: To direct the Executive Director to send a letter in response to Tenant's attorney letter notifying them that the issue as to timeliness will be considered at the outset of the appeal hearing, at which time the Board will make a determination on that issue. (Cole-Chu/Flynn: 3-0). The Board noted that all parties should send copies of Board correspondence to each other.

VIII. Director's Report

The Director requested approval of two new Hearing Officers; Beatrice Ingram and Louis Lowenstein as Hearing Officers.

MSC: To accept the nomination of Beatrice Ingram and Louis Lowenstein as Hearing Officers. (Flynn/Payne: 3-0).

The Director discussed an upcoming Finance Committee meeting on May 27, 1981 for consideration of the supplemental budget requested by the Board.

There was no further discussion concerning grant money from the Office of Community Development.

The Rent Board offices will be remodeled beginning mid-June, during which time the offices will not be available for use for three to five weeks.

IX. Old Business (Continued)

The Board discussed proposed changes as to the composition of the Commissioners.

X. Approval of Appeal Decisions

A. 300-310 28th Avenue

MSC: To adopt the written decision on this appeal. (Flynn/Payne: 3-0).

XI. Old Business (Continued)

The Board decided to hold a special meeting regarding proposed rules changes.

XII. Adjournment

The meeting was adjourned at 10:40 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 26, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

President Cole-Chu called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Cole-Chu, presiding; Flynn; Saunders;
Alternate: Horsley
Commissioners not Present: Alviar; Baird;
Alternates: Neves, Payne; Vurek
Staff Present: Hernandez; Francis; O'Hearn

III. Executive Session

The Board conducted the first ten minutes of the meeting in executive session to discuss litigation concerning 250 Fell Street.

MSC: To accept Landlord's petition and schedule a hearing allowing a rent increase, if granted by the hearing decision, to be effective 30 days after the decision. (Flynn/Saunders: 4-0).

IV. New Business

The Board discussed Ordinance changes proposed by Supervisor Lee Dolson concerning PG&E pass-through and extension of the Ordinance.

The Board scheduled a special meeting to discuss proposed changes in the Rules and Ordinance which will be held on June 13, 1981, 9:00 a.m. to noon, at TRI Realty, 1750 Van Ness.

V. Approval of Decision

A. 7421 Geary Blvd. #1, 3, and 4

MSC: To approve the amendment to the Decision on Appeal.
(Horsley/Flynn: 4-0).

President Cole-Chu left the meeting at 6:05 p.m. Thereafter Vice-President Flynn presided.

VI. Consideration of Appeals.

A. 308 Turk St. #5

Landlord appealed the Hearing Officer's decision because he did not appear at the hearing due to confusion with his attorney as to who would appear at the hearing.

MSC: To deny the appeal. (Horsley/Saunders: 2-1, Flynn dissenting.)

B. 371 Columbus Ave. #9

Tenant appealed the Hearing Officer's decision which found Tenant's petition was not timely filed to arbitrate the matter.

MSC: To deny the appeal. (Saunders/Horsley: 3-0)

C. 1945 Pacific Ave. #5D

Landlord appealed the Hearing Officer's decision in that he contested the amount of operating and maintenance costs allowed.

MSC: To deny the appeal. (Horsley/Saunders: 3-0).

D. 56 Rondell #1

Landlord appealed the Hearing Officer's decision which found the four-unit building to be non-owner occupied. Landlord, who did not appear at the hearing, claims to have been a resident of the building since October 1, 1980.

MSC: To accept the appeal and remand the case for a new hearing before the original Hearing Officer in order to determine jurisdiction of the Board. (Saunders/Horsley: 3-0).

VII. Appeal Hearings

A. 1800 Broadway

Hearing on this appeal commenced at 6:25 p.m. At the outset, attorneys for the parties argued whether or not the Board had jurisdiction to accept and hear this appeal due to untimely filing.

MSC: That the Board has jurisdiction over this appeal. (Saunders/Horsley: 3-0).

Landlord then proceeding to present rent increase issues concerning capital improvement costs and PG&E pass-through costs. Tenants' attorneys objected to interest costs included in the calculation of capital improvements, and to calculation of the PG&E pass-through as to the number of rooms figured.

Tenants then proceeded to present evidence on the issue of decrease in services concerning managerial service, the intercom system (one of Landlord's capital improvements), and lack of certain repairs and other services.

The Board agreed to hold the record open for a period of ten days, during which time Landlord will submit a copy of the recorded trust deed and a declaration of the oral agreement as to loans for capital

improvements, Tenants' attorneys will respond and counsel for the parties will submit any written closing arguments.

The hearing terminated at 8:24 p.m.

B. 1896 Pacific Ave. #804

Hearing on this appeal commenced at 8:35 p.m. Parties were present and presented argument and evidence concerning the main issues of 1) effectiveness of notice of rent increase and 2) whether \$10,000 expended by Tenants for improvements to the unit is considered "rent" under the Ordinance.

The hearing terminated at 9:20 p.m.

MSC: Effective March 5, 1981, to establish the previous base rent at \$1,616/month upon which is calculated a 7 percent increase and capital improvement costs of \$52.98 for determination of the new base rent. (Saunders/Horsley: 3-0). The Board also determined that payments per the parties' agreement as to home-owner assessments are not part of the base rent.

VIII. Approval of Minutes

MSC: To approve the minutes of May 19, 1981 as corrected by Commissioner Flynn. (Saunders/ Horsley: 3-0).

IX. Director's Report

The Director discussed the meeting with the Finance Committee on May 26, 1981 and the meeting on May 27, 1981 before the Board of Supervisors.

X. Approval of Appeal Decision (cont'd)

2120 Pacific Ave.

MSC: To approve the decision on appeal as corrected by Commissioners Flynn and Horsley. (Saunders/Horsley: 3-0).

XI. Calendar Items

The appeal decision on 1800 Broadway will be scheduled on June 9, 1981. Approval of the appeal decision on 1896 Pacific Ave. #804 will be scheduled next week, on June 2, 1981.

XII. Adjournment

The meeting was adjourned at 10:00 p.m.

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, June 2, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

Vice-President Flynn called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Flynn; presiding; Baird; Horsley
Alternates: Payne; Fung
Commissioners not Present: Alviar; Saunders
Alternates: Neves; Vurek; Anderson
Staff Present: Hernandez; O'Hearn; Marshall

III. Consideration of Appeals

A. 990 Geary St. #208

Tenant appealed the Hearing Officer's decision which found Landlord entitled to a utility pass-through in addition to a 7 percent increase. Tenants' appeal is based on the fact he had not received a copy of Landlord's invoices, as well as certain revised calculations.

MSC: To excuse Commissioner Flynn from voting on this appeal consideration. (Horsley/Payne: 4-0.)

MSC: To deny the appeal (Payne/Horsley: 4-0, Commissioner Fung voting as alternate for Commissioner Flynn.)

B. 350 Laguna Honda Blvd. #6 and 12

Commissioner Flynn re-appeared on the record and resumed presiding over the meeting.

Landlords appealed the Hearing Officer's decision finding one Tenant-Petitioner's rent to be increased 7 percent effective January 1, 1981 and the other Tenant-Petitioner's rent to remain at its current level until November 1981 as such date would be one year since the last increase. Landlords did not appear at the hearing, which record was held open until March 31, 1981. The hearing was held on March 9, 1981 and Landlords previously notified Rent Board staff that they were unable to attend the hearing due to employment duties.

MSF: To accept this appeal and remand the case to the same Hearing Officer, only as to the Tenant who had no previous rent increase within the prior 12-month period. (Horsley/Payne: 2-2, Horsley and Flynn dissenting.)

MSC: To deny this appeal (Baird/Horsley: 3-1, Payne dissenting.)

C. 909 Geary St. #625

Commissioner Saunders appeared on the record at 5:35 p.m.

Tenant appealed the Hearing Officer's stipulation signed by Tenant and Landlord's manager on the date of the hearing. The stipulation provided in part, for a current utility pass-through of \$2/month. Tenant complains that rents are never stationary.

MSC: To deny this appeal. (Saunders/Baird: 4-0.)

D. 400 Avila Street, #6

Tenant appealed the Hearing Officer's decision because he did not receive timely Notice of Hearing. The Hearing Officer wrote a memorandum regarding dismissal of this case which noted that Tenant was reported as having told other Tenants that he had been effectively notified by the Board of the hearing date.

MSC: To accept this appeal and remand the case to the same Hearing Officer for a new hearing. (Horsley/Saunders: 4-0.)

IV. New Business

The Executive Director introduced to the Commissioners the Board's new law clerk on staff, Polly Marshall.

New Alternate Commissioner Paulette Anderson appeared at the meeting at 6:00 p.m.

V. Approval of Minutes

MSC: To approve the minutes of May 26, 1981 as corrected by Commissioner Horsley. (Saunders/Horsley: 4-0.)

VI. Approval of Appeal Decision

1896 Pacific Avenue #804

MSC: To approve this appeal decision as corrected by Commissioner Flynn. (Saunders/Horsley: 4-0.)

VII. Communications

The Board received today a letter from the Office of General Counsel for Hastings College of Law. The letter is in response to a letter from attorney Lynda Martyn who represents three tenants at 324 Larkin Street. The building is owned by Hastings College of Law and the General Counsel believe it is exempt from the Residential Rent Stabilization and Arbitration Ordinance. The Board agreed to postpone discussion of the issue until next week.

VIII. Director's Report

The Executive Director stated that the Rent Board office would be closed this coming Friday afternoon and Monday morning due to construction.

IX. Appeal Hearing

John Muir Drive Apts.

Hearing on this appeal de novo commenced at 6:15 p.m. Present were counsel for both Tenants and Landlords: Robert DeVries and Charles Clifford, respectively. Landlords' representatives and numerous Tenants were present and testified. Tenants' case was presented first and concerned the issue of decreased services. Major considerations include security, maintenance, and clubhouse use. Landlords' rebuttal included submission of documentary evidence and testimony by Tenants, the general manager and the maintenance supervisor.

The Board agreed to continue the hearing at the regularly scheduled meeting on June 16, 1981 at 6:00 p.m. Vice-President Flynn adjourned the hearing at 11:10 p.m.

X. Calendar Items

Discussion of 324 Larkin Street will be scheduled next week. Continuation of the Appeal Hearing for John Muir Drive Apartments will be scheduled the following week.

XI. Adjournment

Vice-President Flynn adjourned the meeting at 11:15 p.m.

6/3/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 9, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

DOCUMENTS DEPT.

JUN 11 1981

I. Call to Order

Vice-President Flynn called the meeting to order at 5:45 p.m.

II. Roll Call

Commissioners Present: Saunders; Flynn, presiding;
Alternates: Anderson; Fung; Payne
Commissioners not Present: Alviar; Baird; Horsley;
Alternates: Neves; Vurek
Staff Present: Hernandez; Francis; O'Hearn; Wilkinson

Commissioner Vurek appeared on the record at 6:05 p.m.

III. Consideration of Appeals

A. 301 Carl St.

Tenants appealed the Hearing Officer's decision based on incorrect calculation of PG&E pass-through costs.

MSC: To accept the appeal and remand the case to a new
Hearing Officer. (Saunders/Anderson: 3-0.)

B. 863 Waller St. #1

Tenant appealed the Hearing Officer's decision because production of utility bills was not required and Tenant wanted a 18-month period to be examined, instead of a 12-month period.

MSC: To deny the appeal. (Saunders/Anderson: 3-0.)

C. 2250 Northpoint #1, #4

Tenants appealed the Hearing Officer's decision authorizing a rent increase on the basis of comparables alone, but in excess of the Consumer Price Index since the previous rent increase in November, 1980. Tenants' appeal claimed Landlord's petition did not allege comparables as a justification for rent increase, Landlords did not file evidence of comparables until after the hearing, such evidence was not comparable as to length of tenancy, and the CPI standard was not applied correctly.

MSC: To accept the appeal and remand the case on the
record for a hearing to correctly apply the CPI
since November 1980. (Saunders/Anderson: 3-0.)

D. 355A Oak Street

Landlord appealed the Hearing Officer's decision which found Tenant entitled to a \$10/month reduction in rent until commencement of extermination services. Landlord was unable to attend the hearing and had previously notified the Rent Board that he would be out of town on the scheduled hearing date.

MSC: To accept the appeal and schedule an appeal hearing. (Saunders/Anderson: 3-0.)

E. 2655 Pold Street #305

Tenants appealed the Hearing Officer's decision concerning utility pass-through amounts because Tenants petitions were dismissed due to their failure to appear at the hearing.

MSC: That the Hearing Officer's findings regarding utility pass-through amounts affect all Tenants in the building regardless of whether they appear at the hearing. (Saunders/Anderson: 4-0.)

IV. Approval of Minutes

MSC: To approve the Minutes of June 2, 1981. (Saunders/Vurek: 4-0.)

V. Communications

The commissioners received a letter dated June 2, 1981 from William Mandel requesting clarification of Board Rules and Regulation Section 9.23 concerning amortization periods on capital improvements. Mr. Mandel specifically requested information as to amortization of used equipment or fixtures. Mr. Mandel was present at the meeting and commented on the issues raised in his letter. Board resolved that used equipment or fixtures as considered new to the premises, could be amortized over a 5-year period.

VI. Old Business

The Board discussed 324 Larkin Street, a building owned by Hastings College of Law, on the issue of its coverage under the Rent Stabilization Ordinance. The Commissioners received written responses on this issue from both the General Counsel's office of Hastings and the attorney for some of the Tenants in the building. The Commissioners also received a copy of the City Attorney's opinion regarding endorsement of local Health and Safety standards on property owned by Hastings and used for non-educational residential purposes.

MSC: That the City Attorney prepare an advisory opinion on the Board's determination that this property is covered by the Residential Rent Stabilization and Arbitration Ordinance. (Anderson/Vurek: 4-0.)

VII. Director's Report

The Director reported that the Rent Board office is temporarily located in Room 17 while Room 16 is being renovated.

The Director also stated that the Supplemental Budget for the Board had been approved; however, next year's budget appropriations have not been implemented yet. A Finance Committee meeting concerning next year's budget is scheduled on June 19, 1981.

VIII. Consideration of Wrongful Evictions

A. Report from Staff

1. The Hearing Officer heard and summarized evidence on reports of alleged wrongful evictions, finding a strong likelihood of wrongful evictions.

MSC: To adopt the Hearing Officer's findings and to find the Landlord's attempts to evict totally without merit. (Saunders/Anderson: 4-0.)

2. 765 O'Farrell

Landlord appealed a Hearing Officer's determination that clear and convincing evidence exists of a wrongful eviction in this case.

MSC: To deny the appeal and adopt the findings of the Hearing Officer and take no action at this time. (Anderson/Vurek: 4-0.)

Staff (Susan Francis) also reported on action being taken by the City Attorney concerning eviction attempts at 2055 California and by the District Attorney concerning other eviction cases.

IX. Decision on Appeal

A. 1800 Broadway

The Board agreed to postpone making a decision on this appeal until next week.

X. Calendar Items

The Board's special meeting is scheduled this Saturday at 9:00 a.m.

The appeal hearing on 335 A- Oak Street will be scheduled for the Board meeting on June 23, 1981.

XI. Adjournment

Vice-President Flynn adjourned the meeting at 7:30 p.m.



MINUTES OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Saturday, June 13, 1981 at 9:00 a.m. at TRI Realty
1750 Van Ness

DOCUMENTS

JUN 20 1981

I. Call to Order

Vice-President Flynn called the meeting to order at 9:05 a.m.

II. Roll Call

Commissioners Present: Baird; Flynn; Horsley; Saunders;
Alternates: Anderson; Fung; Payne
Commissioners not Present: Alviar;
Alternates: Neves; Vurek

Commissioner Baird left the meeting at 9:30 a.m. Commissioner Vurek
appeared on the record thereafter.

Staff Present: Hernandez; Francis; O'Hearn

III. New Business

A. Election of Board officers

MSC: That Commissioner Flynn serve as President of the
Board. (Baird/Horsley: 4-0.)

MSC: That Commissioner Saunders serve as Vice-President
of the Board. (Baird/Horsley: 4-0.)

IV. Communications

The Board signed a letter to the City Attorney to request a written opinion
supporting the Board's determination that the residential property at
324 Larkin, owned by Hastings College of Law, is not exempt from the
Ordinance.

V. New Business

A. Discussion of proposed changes in the Ordinance.

1. Proposed amendments from the City Attorney

a. Time limit for filing petitions and appeals

MSC: That the Board not accept the recommendation of
the City Attorney that petition and appeal filing
times be mandatory instead of directory. (Baird/
Horsley: 4-0.)

b. PG&E pass-through

- MS: That the PG&E pass-through increases be allowed once a year on the anniversary date of rent increases, if any, and that utilities be defined in the Ordinance as PG&E only. (Horsley/Vurek.)
- MSC: To amend the motion to include that utility pass-through costs 1) become part of the base rent, and 2) shall be calculated by deducting the CPI percentage, and 3) shall be computed separately from operating and maintenance expenses. (Horsley/Saunders: 3-1.)
- MSC: To adopt the motion as amended. (Horsley/Vurek: 4-0.)

The Board agreed to discuss these issues again later by July.

B. Proposed amendments from the Director

1. Discussion of Director's memorandum to the Commissioners dated May 11, 1981.

MSC: To approve proposed amendments to Section 37.2(e) (adding "or" between "lessor, sublessor;" Section 37.4(d) to provide that members shall serve two year terms; 37.4(e) to provide that the Board shall elect a president and vice-president from among its members in January of each year; and to eliminate both sections 37.11 and 37.13(c). (Saunders/Horsley: 4-0.)

2. Discussion of Director's memorandum to the Board dated April 14, 1981.

The Board further agreed to pursue recommendations as to 1) clarification in Section 37.2(m) of subtenants, co-tenants and roommates 2) expansion of the "banking" concept in Section 37.3(a)(1), and 3) allowing for appeals to the Real Estate Department in Section 37.7 in terms of mandating petitions by landlords.

VI. Remarks from the Public

There was no attendance by the public at this special meeting.

VII. Adjournment

The meeting was adjourned at 11:40 a.m.

6/15/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, June 19, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

DOCUMENTS DEPT.

I. Call to Order

President Flynn called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Flynn, presiding; Baird; Horsley;
Alternates: Payne; Anderson; Fung
Commissioners not Present: Alviar; Saunders
Alternates: Neves; Vurek
Staff Present: Hernandez; O'Hearn

III. Consideration of Appeals

A. 636 Hyde Street #202

Tenant appealed the Hearing Officer's decision which disallowed a rent increase. Tenant contended that the decision did not deal with his claim of decreased services in now paying for electric heat, and that the Landlord would later pass on capital improvements costs resulting from the change-over from steam to electric heat.

MSC: To deny the appeal without prejudice to Tenant's right to contest a future rent increase based on capital improvement costs. (Baird/Horsley: 4-0.)

B. 470- 14th Street

Tenants appealed the Hearing Officer's decision which allowed rent increases based on capital improvement costs and increased operating and maintenance costs. Additionally, the decision disallowed two months' rent increase as a credit for lack of heat during the time Landlord was converting the heating system, with such utility costs subsequently to be paid by Tenants. In their appeal, Tenants question the costs substantiating the increase granted.

MSC: To accept the appeal and remand the case for a new hearing. (Baird/Horsley: 4-0.)

C. 1299 California Street #16, and #22

Landlord appealed the Hearing Officer's decision which found Landlord entitled to PG&E pass-through costs, but not entitled to increased operating costs for water service. Landlord did not submit evidence concerning all material operating expenses because the Hearing Officer did not request such evidence.

MSC: To deny the appeal. (Horsley/Baird: 3-1, Payne dissenting.)

IV. Approval of Minutes

MSC: To approve the Minutes of June 9, 1981 as amended by the Board. (Payne/Baird: 4-0.)

VI. Consideration of Allegation of Wrongful Eviction

A. 535 Steiner

Commissioner Payne was excused from consideration of this case.

Landlord appealed the Hearing Officer's Summary of Evidence on Report of Alleged Wrongful Eviction. The Hearing Officer determined that an eviction on the ground of substantial rehabilitation would clearly be wrongful. The Board had taken no action on the Hearing Officer's Summary and the staff had not brought this case before the Board. Landlord requested another hearing to address constitutional issues as to the Ordinance and Rules and Regulations. Landlord was present at the meeting and commented on issues raised in his appeal.

MSC: To deny this appeal. (Horsley/Baird: 3-0.)

VII. Appeal Hearing

A. John Muir Drive Apartments (Cont'd)

The continuation of this appeal hearing commenced at 6:19 p.m. Landlords resumed presentation of their case in rebuttal of Tenants' claims of decreased housing services. Testimony and documents were presented. Tenants then proceeded with their case in rebuttal of Landlords contentions. After closing arguments by both sides, the hearing terminated at 10:00 p.m.

VIII. Decision on Appeal

A. 1800 Broadway

The Board discussed issues concerning decreased services, utility pass-through costs, and capital improvement costs.

MSC: To grant increases of 7 percent, capital improvement costs at 18 percent interest, PG&E pass-through costs on recalculation, and to deny Tenants' request for consideration of an increase in rent based on a decrease in services. (Horsley/Payne: 4-0.)

IX. Director's Report

The Director submitted proposed new forms for Landlord's petition and for postponement requests.

X. Adjournment

The meeting adjourned at 10:47 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 23, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Alviar; Baird; Flynn;

Alternate: Payne;

Commissioners not Present: Horsley; Saunders

Alternates: Anderson; Fung; Neves; Vurek

Staff Present: Hernandez; O'Hearn

Commissioner Anderson appeared on the record at 5:45 p.m.

III. Consideration of Appeals

A. 773 Cole St. #2

Landlords appealed the Hearing Officer's decision which found that a new tenancy was not created when a new co-tenant moved in with one of the original co-tenants. Landlords contend that each Tenant should be treated individually, thus allowing Landlords to raise the rent by one-half of the increase which would be allowed if the unit was fully decontrolled.

MSW: To accept the appeal de novo. (Payne/Alviar)

MSC: To accept the appeal on the record and schedule a hearing before the Board, during which time the parties could present arguments on the issues. (Payne/Alviar: 5-0.)

B. 179 Douglas St. #4

Landlord's agent appealed the Hearing Officer's decision which found that Landlord may give 30-day notice of a rent increase to begin on, or after, July 1, 1981. As the decision was sent to the parties on June 3, 1981, Landlord was not able to give such 30-day notice. Further, Landlord contended that the Hearing Officer erred in not granting an additional \$100/month increase based on increased debt service.

MSC: To accept the appeal and remand the case on the record to the original Hearing Officer to amend the findings to make the rent increase effective July 1, 1981. (Payne/Baird: 5-0.)

C. 1222- 21st Ave. #2

Tenant appealed the Hearing Officer's decision which denied the rent increase due to its proposed effective date being less than twelve months since Tenant's last increase. However, the Hearing Officer determined the maximum allowable increase as of June 15, 1981, the date on which an increase could be permissible. Tenant claimed the allowable increase was in error because operating and maintenance costs included expenses for capital improvements.

MSC: To accept the appeal and remand the case to a new Hearing Officer for a new hearing.
(Payne/Alviar: 5-0.)

D. 786 Geary St. #403

Landlord appealed the Hearing Officer's decision on remand which denied a rent increase to be imposed because additional persons (children) occupied the premises. Landlord sought a larger increase on the remand of this case and contended the timing of a rent increase was within his discretion, whether or not he knew four people occupied the apartment for two years.

MSC: To deny the appeal. (Payne/Alviar: 5-0.)

IV. Approval of Minutes

MSC: To approve the Minutes of June 13, 1981 and June 16, 1981. (Baird/Payne: 5-0.)

V. Communications

The Board received a letter and attachment from the Deputy City Attorney regarding proposed changes in the Ordinance. The Board agreed to discuss the changes under New Business on the agenda.

VI. Appeal Hearing

A. 335A Oak St.

The Board held a de novo hearing on this appeal by Landlord who was not present at the original hearing. The hearing on appeal commenced at 6:15 p.m. Landlord and his witness, the former tenant of the premises, testified that Tenant moved into the premises from his previous apartment next door just prior to November 1980. However, Landlord claimed he was not aware, until February 1981, that the former tenant had vacated the premises by November 1980. Therefore, in March 1981, Landlord gave notice to increase the current Tenant's rent based on a new tenancy. Tenant claimed he believed the former tenant in effect was sharing the premises with him until she moved her belongings in March 1981. The former tenant claimed she merely was lending her furniture to Tenant.

The hearing terminated at 6:40 p.m. The Board then discussed the issue of whether Tenant moved in to his current apartment with Landlord's knowledge. Also at issue was the date upon which a rent increase would take effect.

MSC: To vacate the Hearing Officer's decision; deny Tenant's petition, and establish Tenant's new rent of \$250/month effective April 12, 1981. (Baird/Payne: 5-0.)

VII. Director's Report

The Director requested Board approval of new forms for 1) Landlord's petition, 2) postponement requests, and 3) operating and maintenance expenses. The Board determined that it wants to be apprised of new forms, but wishes to leave final approval to the discretion of the Director.

The Director informed the Board that he would be attending a Finance and Social Services Committee meeting on June 24, 1981 to present next year's budget.

The Board agreed to hold no meeting next week to enable the Director to prepare for the new fiscal year which begins July 1, 1981.

VIII. Decision on Appeal

A. John Muir Drive Apts.

The Board discussed a decision on this appeal on which a de novo hearing was held during the last two regularly scheduled Board meetings. Commissioner Baird began discussion by outlining the issues in explanation of his motions.

The Board determined to vote separately on each amendment to the main motion before voting on the main motion. The main motion was to set aside the Hearing Officer's decision and find a reduction in rent effective August 1, 1980 because of the decrease in security services.

Amendment 1 to the motion

MSC: That the Tenants covered by this decision are those who were residing at the premises as of July 7, 1980 and who still reside there as of June 30, 1981 (seven days from the date of this decision). (Baird/Payne: 4-1, Payne dissenting.)

Amendment 2 to the motion

MSC: That the decrease in rent amounts to \$15/month per unit. (Baird/Payne: 4-1, Flynn dissenting.)

Amendment 3 to the motion

- MSF: That the rent reduction shall remain in effect until current management notifies the Board, with proof of service to each Tenant on thirty days notice, that an agreement has been reached, or current management feels that whatever adjustments have been made, the decrease in services no longer exists. (Baird/Alviar: 2-3, Anderson, Flynn, and Payne dissenting.)
- MSC: That the rent reduction shall remain in effect until an agreement has been reached or until security is restored on a 24-hour/day basis on thirty days notice to the Tenants and the Rent Board. (Payne/Anderson: 5-0.)

The Board invited comments from both side's counsel on the mechanics of implementing this decision. Issues discussed included future petitions, extension of time for Tenants to pay back rent owed pursuant to the decision, and claims by former Tenants who were original petitioners.

Reconsideration of Amendment 1 to the motion.

- MSC: To rescind the vote of Amendment 1 to the motion. (Anderson/Baird: 4-1, Flynn dissenting.)
- MSC: That the Tenants covered by this decision are those who were residing at the premises as of July 7, 1980 and who either still reside there as of June 30, 1981, or filed a petition as of June 23, 1981 but moved out subsequent to the date of filing a petition. (Baird/Anderson: 5-0.)

Amendment 4 to the motion

- MSC: That as to future petitions with regard to decrease in services, the only issue is the date on which tenancy began. (Baird/Alviar: 5-0.)

Amendment 5 to the motion

- MSC: To make any retroactive rent payments, accrued by this decision, due no later than August 1, 1981. (Baird/Alviar: 5-0.)

Main motion

- MSC: To set aside the Hearing Officer's decision and find a reduction in rent effective August 1, 1980 because of a decrease in security services. (Baird/Payne: 5-0.)

IX. New Business

The Board discussed new proposed changes in the Ordinance regarding utility pass-through provisions.

MSC: That 1) utilities be defined in the Ordinance as gas and electricity (PG&E); 2) utility increases, if any, shall not be part of base rent; and 3) utility increases shall be passed through only once a year on the anniversary date of rent increases, if any. (Baird/Anderson: 5-0.)

The Board confirmed other proposed Ordinance changes on which votes were taken at previous Board meetings.

X. Calendar

The Board agreed to schedule the appeal hearing for 773 Cole Street, No. 2 on July 14, 1981. Approval of Appeal Decisions for 1800 Broadway, 335A Oak Street, and John Muir Drive will be scheduled July 7, 1981.

XI. Adjournment

President Flynn adjourned the meeting at 10:20 p.m.

6/26/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, July 7, 1981 at 5:30 p.m. at the State Building
350 McAllister St., #1195

I. Call to Order

President Flynn called the meeting to order at 5:36 p.m. DOCUMENTS DEPT.

II. Roll Call

JUL 16 1981

Commissioners Present: Alviar; Saunders; Flynn;
Alternates: Anderson; Fung
Commissioners not Present: Baird; Horsley;
Alternates: Neves; Payne; Vurek
Staff Present: Hernandez; O'Hearn

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III. Consideration of Appeals

A. 176 Page Street

Landlord appealed the Hearing Officer's decision which denied a rent increase over the guidelines. Landlord claimed the Hearing Officer ignored the justifications sought for the increase and improperly accepted Tenant's evidence of comparables.

MSC: To deny this appeal. (Saunders/Anderson: 4-0).

B. 3600- 21st Street #504

C. 3600- 21st Street #303, 403

Landlord appealed both Hearing Officers' decisions which each granted increases over the guidelines based on capital improvement costs and increased operating and maintenance expenses. Landlord claimed he was entitled to an additional guideline increase because no increase was imposed for certain 12-month periods after April 1979.

MSC: To deny both of these appeals. (Saunders/Anderson: 4-0).

D. 925 Geary Street, #202

Tenant appealed the Hearing Officer's decision which granted a rent increase over the guidelines based on capital improvement costs and increased operating and maintenance expenses. The allowed PG&E pass-through amount of \$5.82/month made Tenant's total rent payment more than the rent amount originally requested by Landlord. Tenant claimed the rent increase was excessive and did not include consideration of alleged poor conditions in his apartment.

MSC: To deny this appeal. (Saunders/Alviar: 4-0).

E. 109 Buchanan Street #4

Tenant appealed the Hearing Officer's decision which denied one claim concerning decreased services, during the entire period of his tenancy, cause by roof leakage which Landlord attempted to correct. The decision granted another claim concerning decreased services which was based on Landlord's denial of Tenant's access to the garage.

MSC: To deny this appeal. (Saunders/Anderson: 4-0).

IV. Approval of Minutes

MSC: To approve the minutes of June 23, as corrected. (Alviar/Anderson: 4-0).

V. Communications

The Board received a request for continuance of the appeal hearing on 773 Cole Street #2. Both parties agree to the continuance from July 14, 1981 to July 28, 1981.

MSC: To grant the postponement as requested. (Saunders/Alviar: 4-0).

VI. Director's Report

The Director notified the Board that RAP Amendments are scheduled to be completed on July 27, 1981 and will be submitted to the Board.

The Director proposed a training session for Hearing Officers which is tentatively scheduled for September 12th and 19th.

The Director has begun preparation of the Rent Board's annual report.

VII. Approval of Appeal Decisions

A. 335-A Oak Street

The Board held a hearing de novo on this appeal on June 23, 1981.

MSC: To approve the decision as corrected. (Alviar/Anderson: 4-0).

B. 1800 Broadway Street

The Board held a hearing de novo on this appeal on May 26, 1981 and voted on the decision on June 19, 1981.

MSC: To approve the decision. (Saunders/Alviar: 4-0).

C. John Muir Drive Apartments

On June 2, and 19, 1981, the Board held a de novo hearing on this appeal. On June 23, 1981, the Board voted on the decision.

MSC: To approve the decision as corrected. (Saunders/Alviar: 4-0).

VIII. Old Business

The Board requested the Director to contact the City Attorney for follow-up on the Board's request of June 13, 1981 for an advisory opinion that the residential property at 324 Larkin Street, owned by Hastings College of Law, is not exempt from the Rent Ordinance.

IX. Adjournment

President Flynn adjourned the meeting at 7:47 p.m.

7/8/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 14, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

DOCUMENTS DEPT.

I. Call to Order

President Flynn called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Alviar; Horsley; Saunders; Baird; Flynn;
Alternate: Fung
Commissioners not Present: Alternates: Anderson; Neves; Payne; Vurek
Staff Present: Hernandez, O'Hearn

Commissioner Anderson appeared on the record at 5:45 p.m.

III. Consideration of Appeals

A. 1519 Oak Street

Landlord appealed the Hearing Officer's decision which denied a rent increase sought on the basis of refinancing due to an interest rate increase. The decision applied the Board's rule requiring the proceeds of refinancing to be reinvested in the building in order to justify an increase over the guidelines.

MSC: To deny this appeal. (Baird/Horsley: 5-0.)

B. 501 Douglass Street #5

Landlord's agent appealed the Hearing Officer's decision which denied a rent increase sought on the basis of recent purchase, increased debt service and comparables. The claim on appeal was that the rent for this unit is significantly below those of comparable units in the area.

MSC: To deny this appeal. (Saunders/Baird: 5:0.)

C. 38 Belvedere Street #1

Tenant appealed the Hearing Officer's decision dismissing the petition due to untimely filing. Tenant contends that he was not provided a sufficient opportunity to rebut Landlord's contentions made during the hearing. Further he contends that his petition was not untimely because the proposed rent increase was contingent on Landlord's completion of repairs which are not yet completed.

MSC: That the petition was timely filed and to accept the appeal and remand the case for a new hearing before a Hearing Officer. (Saunders/Horsley: 5-0.)

D. 2240 Larkin Street #304

Landlord appealed the Hearing Officer's decision which granted a utility pass-through cost and a rent increase over the guidelines based on capital improvement costs, but denied other rent increases sought on the basis of another capital improvement cost and increased operating and maintenance expenses. Landlord claims both the utility pass-through and capital improvement costs were figured incorrectly and that the decision was in error in denying other rent increases sought.

MSC: To deny this appeal. (Saunders/Horsley: 5-0.)

E. 647 Grand View #1

Landlord appealed the Hearing Officer's decision which denied a rent increase proposed less than 12 months since the last rent increase. Landlord claimed that the previous rent increase, which was by stipulation before the Rent Board, was to be effective for a period of only seven months. The previous Hearing Officer's report of settlement did not designate a set period for the rent increase, but the previous Hearing Officer notified Landlord that it was her recollection that the previous rent increase would allow Landlord to again increase rents on the former anniversary date of rent increases.

MSC: To deny this appeal. (Saunders/Baird: 5-0.)

IV. Approval of Minutes

MSC: To approve the minutes of July 7, 1981, as corrected. (Saunders/Baird: 5-0.)

V. Communications

The Board received from the City Attorney's office written proposed amendments to the Rent Ordinance as previously voted by the Board.

The Board requested the Executive Director to apply, for purposes of comparison only, the CPI to rent increase cases concerning comparables and to report the results to the Board.

VI. Director's Report

The Bureau of Building Inspection is recommending that RAP Amendments provide for Rent Board jurisdiction after the base rent for RAP area units has been established. Both RAP and Rent Board amendments will be scheduled before the Board of Supervisors Committee on August 18, 1981.

The Executive Director discussed budget cuts by the Office of Community Development in its housing programs.

The City Attorney's office has assigned a new Deputy City Attorney to the Rent Board and limited time to be spent on Rent Board issues to five hours per week.

VIII. Adjournment -

President Flynn adjourned the meeting at 7:35 p.m.

7/15/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, July 21, 1981 at 5:30 p.m. at the State Building
- 350 McAllister St. #1195

DOCUMENTS DEPT.

I. Call to Order

JUL 23 1981

President Flynn called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Alviar; Horsley; Saunders; Flynn;
Alternate: Payne
Commissioners not Present: Baird; Alternates: Anderson; Fung;
Neves; Vurek
Staff Present: Hernandez; O'Hearn

Commissioner Vurek appeared on the record at 6:00 p.m.

III. Consideration of Appeals

A. 1115, 1117, 1119, 1131, 1139, Green Street

Landlord appealed the Hearing Officer's decision on these consolidated cases. The decision denied increases exceeding the guidelines and based on increased operating expenses. Capital improvement costs for plumbing and painting were considered justification for additional rent increases. Landlord's appeal contested the denial of certain increases and claimed the increases should be retroactive to March 1, 1981 rather than to June 7, 1981 as ordered by the Hearing Officer.

The Hearing Officer, Sue Hestor, was present at the request of the Board to present statements concerning the appeal. Landlord's representative also was present at the meeting and made comments on the appeal.

MSW: To uphold the Hearing Officer's decision except as to the effective date of increase and order the increase be allowed effective March 1, 1981.
(Saunders/Alviar.)

MSC: To deny the appeal in part and accept the appeal in part and remand the case back to the Hearing Officer as to 1) the effective date of increase, 2) capital improvement cost up to 10 percent for the cottages, and 3) allow other capital improvement costs up to 10 percent based on the Hearing Officer's original findings. (Horsley/Saunders: 4-0.)

B. 1350 Sutter Street, #56

Landlord appealed the Hearing Officer's decision which denied a rent increase over the guidelines. Landlord claims he was never notified of the hearing. Tenant's petition did not include Landlord's address and Rent Board staff sent the hearing notice to Landlord's address listed at the Assessor's office.

MSC: To accept the appeal and remand the case for a new hearing. (Saunders/Horsley: 5-0.)

C. 1395 Golden Gate Avenue #304

Landlord appealed the decision in which he claimed the Hearing Officer incorrectly calculated the PG&E pass-through. Landlord had chosen a 6-month pass-through period, but Landlord wanted to pass through the total amount for two successive periods combined.

MSC: To deny the appeal. (Saunders/Alviar: 5-0.)

D. 459 Turk Street #304

Tenant appealed the Hearing Officer's dismissal of his petition on the basis that he did not appear at the hearing. Tenant resides at a residential hotel and states his mail is delivered through management.

MSC: To accept the appeal and remand the case for a new hearing. (Alviar/Horsley: 5-0.)

E. 371 Turk Street #42

Tenant filed an appeal contesting that the rent reduction granted by the Hearing Officer was insufficient. The rent reduction was allowed due to lack of elevator service. Tenant claimed a further reduction should have been granted for other decreased services alleged at the hearing.

MSC: To deny this appeal. (Horsley/Alviar: 5-0.)

IV. Approval of the Minutes

MSC: To approve the minutes of July 14, 1981, as corrected. (Horsley/Vurek: 5-0.)

V. Communications

The Board received resumes for potential Hearing Officers recommended by the Executive Director.

VI. Director's Report

The Director presented the first results of the Board's indexing project compiling data for the first 284 petitions filed with the Board.

The Director reported that the staff will slow down the scheduling of hearings in August due to the expected shortage of staff during that time.

The Director also reported on the OCD budget and discussed RAP amendments which will affect the Board.

VII. Adjournment

President Flynn adjourned the meeting at 7:45 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, July 28, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present

Alviar; Saunders; Flynn;

Alternates: Anderson; Fung; Payne

Commissioners not Present: Baird; Horsley;

Alternates: Neves; Vurek;

Staff Present:

Hernandez; O'Hearn

III. Consideration of Appeals

A. 1600 Fell Street, #304

Tenant appealed the Hearing Officer's decision which denied her and other tenants' petitions for failure to appear at the hearing. This Tenant claims she did not receive notice of the hearing from the Board. At a previously scheduled hearing, one of the other tenants appeared as a tenants' representative and agreed to a new hearing date. Rent Board staff notes in the file indicate that a new notice of hearing was sent to all parties. However, the proof of service omits the Tenant's name.

MSC:

To accept the appeal and remand the case for a
de novo hearing before the original Hearing Officer.
(Saunders/Anderson: 4-0.)

B. 1915 Baker Street, #3

Landlord appealed the Hearing Officer's decision which granted Tenant a reduction in rent of \$75.00/month commencing April 1, 1981 and continuing for as long as the garage services are denied Tenant. Landlord's appeal claims that Tenant was using the garage until the decision was entered on June 24, 1981 and that Tenant should pay for the garage service during that period.

On the day of the Board's consideration of this appeal, the other Landlord filed a separate appeal concerning the same decision.

The Board agreed to postpone consideration of
this appeal for one week.

C. 2730 Clement St.

Landlord appealed the Hearing Officer's decision which denied any rent increase, even under the guidelines, to Tenant because utility costs were transferred to all of the tenants. Landlord claims he is

entitled to a 7 percent rent increase because he has imposed no rent increase since inception of the lease in November 1979 and because the tenants agreed in writing on March 1, 1981 that Landlord would no longer provide the heat.

MSC: To accept this appeal and remand the case to a new Hearing Officer for a new hearing. (Alviar/Anderson: 4-0.)

D. 665- 6th Avenue, #5

Landlord appealed the Hearing Officer's decision which denied a rent increase in excess of the guidelines due to insufficient evidence submitted by Landlord. In addition, the Hearing Officer found that Landlord did not provide proper notice of a 7 percent rent increase and denied such increase on that basis, as well as because there was a reduction in housing services (payment of utility bills) without a corresponding decrease in rent. Landlord contends she was not aware that she needed to submit more evidence and that Tenant is taking advantage of Landlord.

MSC: To accept the appeal de novo for hearing before the full Board. (Saunders/Alviar: 3-1, Anderson dissenting.)

E. 2784 Harrison Street

Tenant appealed the Hearing Officer's decision which granted a 7 percent guideline rent increase. Tenant contends the rent increase should not be allowed because of lack of repairs.

MSC: To deny this appeal and that if Tenant feels Landlord has neglected his duty to make repairs, Tenant should seek appropriate legal advice or remedies. (Saunders/Anderson: 4-0-)

F. 755- 5th Avenue, #204

Landlord appealed the Hearing Officer's decision because the increase denied was granted by the Board the previous year. Landlord claimed that because Tenant had not signed a prior Addendum to the Rental Agreement, which provided for a rent increase due to capital improvements, current rent increases sought which were based on capital improvement costs should have been granted.

MSC: To deny this appeal. (Saunders/Anderson: 4-0.)

IV. Appeal Hearing

A. 773 Cole Street, #2

This appeal hearing on the record was before the Board on the issue of vacancy decontrol. In particular, this case involved whether a new tenancy was created when the original Tenant remained on the premises with a new co-tenant. Landlord had proposed a new base rent

determined by adding half of the market rent to half of the original rent. The Hearing Officer's decision denied such increase.

The parties and their representatives were present at the hearing and presented arguments on this issue. The hearing terminated at 6:55 p.m.

MSC: That the decision of the Hearing Officer be upheld with the following clarifications: when one of the original tenants resides at the premises, a new co-tenant does not create vacancy de-control for those premises; and an original tenant is any tenant residing at the premises with the landlord's permission, or at sufferance, or as per written or oral agreement with the landlord, at the time the Rent Ordinance is in effect. (Saunders/Alviar: 4-0.)

V. Approval of the Minutes

MSC: To approve the minutes of July 21, 1981. (Saunders/Alviar: 4-0.)

VI. Communications

The Board received a resume for a potential Hearing Officer recommended by the Executive Director.

President Flynn received a letter from the Deputy City Attorney regarding the property at 324 Larkin Street, which is owned by the University of California, Hastings College of the Law.

The letter confirmed the Board's position that the property is not exempt, and therefore subject to, the Rent Ordinance. The Board directed that copies of the letter be sent to counsel for parties in this matter.

VII. Director's Report

The Executive Director requested Board approval of a proposed budget to submit to the Office of Community Development.

MSC: To adopt the proposed budget, as amended.
(Saunders/Alviar: 4-0.)

VIII. New Business

The Executive Director is preparing the Board's Annual Report. Commissioner Saunders will work with the Executive Director on preparation of the Annual Report

The Executive Director reported that the second and third computer runs of the Indexing Project have been completed.

IX. Calendar Items

The appeal case accepted by the Board concerning 665- 6th Avenue, #5 will be scheduled for de novo hearing before the Board on August 18, 1981.

X. Adjournment

President Flynn adjourned the meeting at 8:00 p.m.

7/30/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday August 4, 1981 at 5:30 p.m. at the State Building 350 McAllister St., #1195

I. Call to Order

Vice-President Saunders called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Alviar; Saunders; Horsley; Baird
Alternate: Fung
Commissioners not Present: Flynn;
Alternates: Vurek; Neves; Anderson; Payne
Staff Present: Hernandez; Francis

III. Consideration of Appeal

A. 1915 Baker Street, #3

Landlords appealed the Hearing Officer's decision which granted Tenant a reduction in rent of \$75.00/month commencing April 1, 1981 and continuing for as long as garage services are denied Tenant. First Landlord's appeal claims that Tenant was using the garage until the decision was entered on June 24, 1981 and second Landlord's appeal claims that Tenant was using garage until July 18, 1981.

MSC: That the case be remanded to original Hearing Officer with instructions to make the decrease effective the date Ms. Ha has removed all her possessions from the garage, and, that Hearing Officer be directed to amend decision to set the value of the decrease at \$50.00. (Baird/Horsley: 5-0.)

B. 250 Point Lobos Avenue, #203, 304, 501, 502

Landlord appealed the Hearing Officer's decision which decreased the amount allowable as a PG&E pass-through. The Hearing Officer also ordered a refund of the amounts the Tenants were overcharged and ordered the Landlord to conduct an energy audit, neither of which the Landlord appears to be appealing.

MSC: That the case be remanded to a new Hearing Officer with directions to include common areas as part of the pass-through, to review testimony regarding a possible agreement between parties on either September or November 1980, and, that a utility pass-through cannot be conditioned upon performance of an Energy Audit. (Horsley/Alviar: 5-0.)

C. 1710- 10th Avenue

Landlord appealed the Hearing Officer's decision which did not allow a rent increase above 7 percent. Landlord sought to justify increase from \$565 to \$650. Justifications for the increase were rent history, increase in the mortgage rate, and comparables. The Hearing Officer found that Landlord had not sustained his burden of proof in that there was no documentation as to the mortgage rate increase presented, and the evidence of comparables were clippings from the newspaper.

MSC: That the appeal be denied. (Baird/Horsley: 5-0.)

IV. Approval of the Minutes

MSC: To approve the minutes of July 28, 1981 as amended. (Alviar/Horsley: 5-0.)

The Executive Director was asked by the Board to prepare a policy statement regarding the decision on 773 Cole Street, #3.

V. Communications

- A. Quentin Kopp's amendment regarding escrow accounts was discussed by the Board.
- B. Resume from Humberto Cintron was submitted to the Board as application for Hearing Officer. Mr. Cintron was accepted as a Hearing Officer upon recommendation by the Executive Director.
- C. The OCD Budget, as amended to include rental for additional space, was submitted to the Board.

VI. Director's Report

- A. The City Attorney has informed the Executive Director that in her opinion, the time limits are mandatory, not discretionary as to the filing of Tenant Petitions and Appeals.
- B. A Hearing Officer has requested an opinion as to whether a PG&E pass-through can be corrected in the Landlord's favor retroactively.
- C. Supervisor Renne introduced the Amendments to the Ordinance on Roll Call Monday, August 3, and the amendments will be before PHD, August 18. A number of other amendments have also been discussed by other Supervisors.
- D. The Executive Director was on a KFRC call-in show Sunday, August 2 at 10:30 p.m.
- E. The Executive Director will be on vacation August 10 through August 21. Other staff members will also be on vacation.
- F. Construction has begun on Room 17.

VII. Adjournment

Vice-President Saunders adjourned the meeting at 6:37 p.m.

8/5/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, TUESDAY, August 11, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

Vice-President Saunders called the meeting to order at 5:31 p.m.

II. Roll Call

DOCUMENTS DEPT.

Commissioners Present: Alviar; Saunders; Baird;
Alternates: Anderson; Payne
Commissioners not Present: Flynn; Horsley;
Alternates: Fung; Neves; Vurek
Staff Present: Francis; O'Hearn

AUG 24 1981

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Commissioner Fung appeared on the record at 5:34 p.m.

III. Consideration of Appeals

A. 670 Monterey Blvd. #7

Landlord appealed the Hearing Officer's decision which denied a rent increase sought to be imposed less than twelve months since the previous rent increase. Landlord claimed she did not receive notice of the hearing date, although staff proof of service on the notice of hearing indicates the correct address for landlord.

MSC: To accept the appeal and remand the case to a Hearing Officer with instructions to find an appropriate rent increase effective July 1981, with an understanding that the \$2.50 increase for water effective January 1981 should be refunded to the tenant in that it was calculated as a utility pass-through in error. (Baird/Alviar: 5-0.)

B. 585 Page St. Apts. 5, 6, and 7

Landlord appealed the Hearing Officer's decision which granted an increase exceeding the guidelines for capital improvement costs, but denied other increases sought on the basis of PG&E pass-through, increased operating and maintenance expenses, and refinancing. Landlord claimed 1) that the Hearing Officer did not consider the interest rate for capital improvements, 2) that he did not receive sufficient time to produce necessary records to show increased operating expenses, and 3) that refinancing costs should have been allowed as justification for rent increases.

MSC: To accept the appeal on the issue of capital improvements only and remand the case to the original Hearing Officer with instructions to apply the interest rate on the capital improvements and without prejudice to Landlord's right to re-notice a PG&E pass-through. (Anderson/Alviar: 5-0.)

IV. Approval of Minutes

MSC: To approve the minutes of August 4, 1981, as corrected. (Baird/Alviar: 5-0.)

V. Communications

Commissioners Alviar, Horsley, and Neves, and former Commissioner Bell received certificates of their appointment to the Rent Board from the Mayor's office.

VI. Director's Report

- A. Susan Francis, acting on behalf of the Executive Director, reported to the Board.
- B. Construction work is in progress on the Board's hearing room.
- C. Members of the staff recently met with a consultant to prepare a training program for hearing officers.
- D. A Committee of the Board of Supervisors will consider amendments to the Rent Ordinance next Tuesday.

VII. Old Business

- A. Approval of Decision on Appeal
773 Cole Street #2

MSC: To approve this appeal decision. (Alviar/Fung: 5-0.)

VIII. Calendar Items

The appeal hearing for 665- 6th Ave. #5 is scheduled for next week's Board meeting on August 18, 1981.

IX. Adjournment

Vice-President Saunders adjourned the meeting at 6:16 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 18, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

DOCUMENTS DEPT.

President Flynn called the meeting to order at 5:35 p.m. AUG 24 1981

II. Roll Call

SAN FRANCISCO
PUBLIC LIBRARY

Commissioners Present: Alviar; Flynn; Saunders;

Alternate: Anderson

Commissioners not Present: Baird; Horsley;

Alternate: Fung; Neves; Payne; Vurek

Staff Present:

Francis; O'Hearn

Commissioner Baird appeared on the record at 5:37 p.m.

III. Consideration of Appeals

A. 1222- 21st Avenue #4

Tenant appealed the Hearing Officer's decision, which had been appealed on June 9, 1981 by another tenant. The original decision denied the rent increase due to its proposed effective date being less than 12 months since the last increase, but determined the maximum allowable increase as of June 15, 1981, the date on which an increase could be allowable. Tenant claimed the increase allowed due to operating and maintenance expenses was excessive.

B. 1222- 21st Avenue #2

Landlord appealed the Hearing Officer's remand decision pursuant to the tenant's appeal of the original decision mentioned above. The remand decision granted only a 7 percent rent increase because Landlord failed to meet his burden of proof in justifying any additional increase. Landlord claimed in this appeal that he was not aware that he did not have proper documentation.

MSC: To accept both of these appeals and schedule a consolidated appeal hearing de novo before the full Board. (Saunders/Baird: 5-0.)

C. 1055 Fell Street #12

Landlord appealed the Hearing Officer's decision which denied any rent increase until after Landlord has corrected certain Housing Code violations and continued pest extermination service. Landlord's appeal claimed that the Hearing Officer did not give proper weight to evidence of comparable rents and that an 11 percent rent increase to be allowed on conditions stated applies an incorrect percentage of the Consumer Price Index.

MSC: To accept this appeal and remand the case for hearing before a Hearing Officer to apply the Board Rule and Regulation 6.10(b), not 6.10(c), regarding the issue of comparables and not to deny an increase on the basis of defects and conditions of the dwelling unless there is a finding of a decrease in services or a breach of habitability. (Baird/Alviar: 5-0.)

D. 574- 3rd. Street #206

Landlord appealed the Hearing Officer's decision which denied a rent increase due to its being less than 12 months since the last increase and granted a utility pass-through. Landlord's appeal claimed the rent increase should be granted and that calculation of the PG&E pass-through was in error.

MSC: To deny this appeal. (Baird/Anderson: 5-0.)

E. 1487 Sacramento Street #4, 12

Landlord appealed the Hearing Officer's decision which granted increases exceeding the guidelines, but less than the amount requested by Landlord's petition. Landlord's appeal claimed he met his burden of proof by providing a comparable rent study in justifying the increase requested and that the increases granted should be retroactive to June 1, 1981 rather than effective September 1, 1981.

MSC: To deny this appeal. (Saunders/Baird: 5-0.)

IV. Approval of Minutes

MSC: To approve the minutes of August 11, 1981, as corrected. (Alviar/Baird: 5-0.)

V. Director's Report

Susan Francis, acting on behalf of the Executive Director, reported to the Board:

- A. Amendments to the Rent Stabilization Ordinance have been taken off calendar of the Planning Housing and Development Committee of the Board of Supervisors.
- B. Two additional print-outs of the decisions index project have been received.
- C. The Deputy City Attorney's activities on behalf of the Board.

VI. Appeal Hearing

A. 665- 6th Avenue #5

This appeal hearing de novo commenced before the Board at 6:20 p.m. Issues concerned a decrease in housing services in the form of the Landlord's requirement that Tenant pay utility bills. Landlord

claimed Tenant had breached the lease agreement by refusing to pay a share of the PG&E, water and garbage bills and by allowing her son to stay in the premises approximately three days per week. Tenant's contention was that she was coerced under threat of eviction to sign the lease agreement providing that she pay the utilities.

Also at issue was the validity of a notice of rent increase effective February 1, 1981, Tenant initially began paying the increase at that time subsequent to signing a lease agreement on January 1, 1981 establishing rent at \$300/month. The hearing terminated at 6:45 p.m.

MSC: That Tenant shall pay \$300/month rent effective February 1, 1981, and that the decision of the Hearing Officer be affirmed as to all other findings, including Tenant's entitlement to refund or offset of amounts paid for utilities. (Baird/Anderson: 5-0.)

VII. Calendar Items

- A. Hearing Officer training sessions are scheduled for September 12th and 19th from 9:30 a.m. to 4:00 p.m.
- B. The appeal hearing for 1222- 21st Avenue, Apts. 2 and 4 will be scheduled during the Board's regular meeting on September 1, 1981.
- C. Public hearing on Amendments to the Board's Rules and Regulations on utility pass-through (section 1.22) and Board meetings (section 2.14) will be scheduled during the Board's regular meeting on September 1, 1981 at 7:00 p.m.

VIII. Adjournment

President Flynn adjourned the meeting at 7:10 p.m.

8/19/81:ap

Amended



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 25, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

52
2
5/81
add

DOCUMENTS DEPT.

SEP 24 1981

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Flynn called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Alviar; Flynn;
Alternates: Fung; Payne
Commissioners not Present: Baird; Horsley; Saunders;
Alternates: Neves; Vurek; Anderson
Staff Present: Hernandez; O'Hearn

Commissioners Baird and Horsley appeared on the record at 5:45 p.m.

III. Consideration Of Appeals

A. 1000 Montgomery St. #5

MSC: To excuse Commissioner Flynn from consideration of this appeal. (Payne/Alviar: 3-0).

Landlord appealed the Hearing Officer's decision which denied a rent increase exceeding the guideline on finding that Landlords did not incur an increased debt service resulting from their recent purchase of the building. Landlords' appeal claimed that Tenant who was formerly the building manager, should not be considered a tenant under the Rent Ordinance and that the garages should be considered part of Tenant's former compensation for management duties, rather than Tenant's housing services.

MSC: To accept this appeal. (Baird/Payne: 3-2, Alviar and Horsley dissenting).

B. 130 Lake St., Apts. 5, 6, 7, 8, 9, 10, 11, and 12

Landlord appealed the Hearing Officer's decision which granted rent increases in excess of the guidelines, but less than the amounts proposed by Landlord. Landlord's appeal claimed that larger increases should have been granted based on expert testimony and evidence of comparable rents submitted by Landlord. Landlord's appeal also contended that the rent increases granted were inconsistent with one another based on size, tenancy and housing services. Tenants' rebuttal to Landlord's appeal contends that Landlord's evidence of comparables is not sufficient to warrant any additional rent increases. Additionally, in order to reconcile inconsistencies, Tenants request a \$25 reduction for medium and long-term tenants who do not have garages. The Board heard comments from representatives for both parties before voting on the motion. Another contention by both parties concerned one tenant's withdrawal of her rent petition and alleged agreement to pay a rent increase effective September 1, 1981 if she did not vacate the unit by that date. The Hearing Officer included this tenant in the decision.

MSC: To accept the appeal and remand the case to the original Hearing Officer with instructions to reconsider only the issue of garages and to apply the guideline rent increase to apt. 10. (Baird/Horsley: 4-1, Flynn dissenting).

C. 190 O'Farrell St. #310

Tenant appealed the Hearing Officer's decision which denied Landlord's proposed rent increase because a previous increase, due to the management's addition of another tenant in the premises, had been imposed less than 12 months earlier. Tenant appealed because after the Rent Board issued the decision, the manager transferred the new co-tenant and continued to charge the same rent to the sole remaining Tenant.

MSW: To deny this appeal. (Baird/Payne).

MSC: To accept the appeal and remand the case to the original Hearing Officer with instructions to consider the base rent at \$120/month for 2 occupants and to determine the base rent for one occupant, and to determine any resulting allowable rent increase. (Payne/Horsley: 5-0).

D. 4645 Balboa St. #3

Tenant appealed the Hearing Officer's decision which granted Landlord's requested rent increase in excess of the guidelines. Tenant's appeal claimed that Landlord's evidence of comparables was not sufficient to warrant the rent increase.

MSC: To accept the appeal and remand the case to a new Hearing Officer. (Baird/Payne: 5-0).

IV. Approval of Minutes

MSC: To approve the minutes of August 18, 1981. (Baird/Alviar: 5-0).

V. Approval of Decision of Appeal - 655- 6th Ave. #5

MSC: To approve the written decision on appeal, as corrected. (Baird/Alviar: 5-0).

VI. Communications

The following communications were brought to the attention of the Board.

- A. The Board President received a letter from a tenant of John Muir Drive Apartments regarding the appeal decision. The President requested the Executive Director to respond on his behalf, stating that the Board had considered this situation before voting as it did.
- B. The Mayor forwarded to the Board a letter from another tenant of John Muir Drive apartments.

- C. The Board received a resume from Wayne Gishi, an applicant for a Hearing Officer position.
- D. The Executive Director received a memorandum from the Director of the Mayor's Office of Community Development regarding the 1982 draft CD expenditure schedule.
- E. The Executive Director received a letter from the Coalition for Better Housing regarding troublesome areas of the Rent Ordinance.
- F. The Executive Director received a letter from the Beverly Hills City Manager's Office requesting information regarding the San Francisco Rent Stabilization program.

VII. Director's Report

The Executive Director reported on construction work in progress in the Board's hearing room.

VIII. Consideration of Allegation of Wrongful Eviction

A. 37 Broderick St.

Staff reported on this case in which a Hearing Officer rendered a decision pursuant to a hearing held on July 30, 1981. The decision found that the tenant has the right to reoccupy the premises which were previously damaged by fire. The decision found that the premises were ready to re-occupy at the end of May, 1981. However, the Landlord has not allowed the Tenant to re-occupy the premises at the former rent adjusted in accordance with the Ordinance.

MSC: To schedule this case for hearing before the full Board." (Baird/Alviar: 5-0).

IX. Old Business

A. Discussion of proposed Rules Amendments

The Board discussed proposed language for revision of the utility pass-through provision (Section 1.22). A Public Hearing concerning proposed amendments to this Rule is scheduled during the Board's next regular meeting.

X. Calendar Items

A hearing before the Board on consideration of the allegation of wrongful eviction at 37 Broderick St. will be scheduled during the Board's regular meeting on September 8, 1981.

The appeal hearing before the Board regarding 1000 Montgomery St. #5 will be scheduled during the Board's regular meeting on September 15, 1981.

XI. Adjournment

The President adjourned the meeting at 8:40 p.m.



MINUTES OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 1, 1981 at 5:30 p.m. at the State Building 350 McAllister St., #1195

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DOCUMENTS UNIT

SEP 3 1981

I. Call to Order

President Flynn called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Alviar; Horsley; Flynn; Baird
Alternates: Payne; Fungs; Anderson
Commissioners Not Present: Saunders
Alternates: Neves; Vurek
Staff Present: Hernandez; O'Hearn

III. Consideration of Appeals

A. 2030 Vallejo Street #202

Landlord appealed the Hearing Officer's decision which denied utility pass-through costs until properly re-calculated by Landlord. Landlord's appeal contended that sufficient documentation was provided and the method of calculation was appropriate.

MSC: To accept this appeal and remand the case for a new hearing before a Hearing Officer with instructions to consider the number and size of rooms upon which to find the amount of PG&E pass-through directing attention to checks submitted for March & April bills. (Payne/Horsley: 4-1, Baird dissenting).

B. 1315 Polk Street #507

Landlord appealed the Hearing Officer's decision which denied the proposed rent increase because a previous rent increase had been imposed less than 12 months ago. Landlord's appeal claimed only one rent increase had been imposed in the 12-month period and that services, previously found to have been decreased, were available only at extra cost to the tenant. Landlord did not appear at the hearing.

MSC: To deny this appeal
(Payne/Alviar: 5-0)

C. 690 Guerrero Street #4 & #7

Landlord appealed the Hearing Officer's decision which denied any current rent increase until such time as pest infestation has been eliminated and then to allow only a 7% rent increase. Landlord's appeal claimed that sufficient efforts to eliminate pest infestation had already occurred and that capital improvements, made by the previous owner, should have been considered as justification for additional rent increase.

MSC: To accept the appeal and remand the case for hearing before a Hearing Officer with instructions to impose a 7% rent increase unless the pest problem constitutes a decrease in services and without prejudice to the Landlord's seeking a future rent increase based on increased operating and maintenance expenses. (Baird/Horsley: 5-0).

D. 440 Hyde Street #9

Tenant appealed the Hearing Officer's decision which denied rent increases in excess of the 7% guideline and allowed Landlords to provide an electric heater to Tenant who had complained of insufficient heating from the central steam heating system. Tenant's appeal claimed that the electric heater alternative was not more economical than receiving a PG&E pass-through. Additionally, Tenant claimed that her rent increase should be effective July 18, 1981 rather than July 2, 1981, because she received the notice of rent increase on June 18, 1981.

MSW: To deny this appeal. (Payne/Alviar).

MSW: To accept the appeal and remand the case for a new hearing before a Hearing Officer. (Baird/Alviar).

MSC: To accept the appeal and remand the case for a hearing before the original Hearing Officer with instructions to delete the first sentence at lines 26 and 27 on page 2, and to establish the rent increase for this tenant effective July 18, 1981. (Horsley/Payne: 5-0).

MSC: To rescind the above vote. (Horsley/Payne: 5-0).

MSC: To remand the case to the original Hearing Officer for correction of the effective date of rent increase and for deletion of the erroneous conclusion of law at the first sentence of the last paragraph on page 2. (Horsley/Payne: 5-0).

IV. Appeal Hearing

A. 1222 21st Avenue, Apts #2 and #4

The Board held a hearing de novo pursuant to both Landlord's appeal on a previous remand hearing and a Tenant's appeal on the original hearing. Rent increase issues concerned increased operating and maintenance expenses, capital improvement costs and PG&E pass-through costs. Landlord and Tenants from both units were present and submitted evidence on the issues. The hearing closed at 7:00 p.m.

V. New Business

A. The Board held a Public Hearing on proposed amendments to the Board's Rules and Regulations. The hearing commenced at 7:05 p.m. and terminated at 7:30 p.m.

1. The Board discussed proposed changes in the provisions for utility pass-through (Section 1.22). The Board proposes to amend the rule by providing for only one pass-through in a twelve-month period to be given at the time of a tenant's annual rent increase, if any. The pass-through would be based on a twelve-month calculation period rather than a "six-month or more period" as currently provided in the Rules.

Members of the public who attended the hearing and offered testimony were Winnifred McCarthy from the Apartment Owners Association and Barbara Kolesar from the Coalition for Better Housing.

2. The Board also discussed proposed changes of the regulation concerning Board meetings (Section 2.14). The Board proposes to meet regularly on the first Tuesday of the month and thereafter on subsequent Tuesdays according to its workload. The present rule provides that the Board meet each Tuesday. The proposed rule would conform to the requirement of Ordinance Section 37.5(a).

VI. Approval of the Minutes

MSC: To approve the minutes of August 25, 1981, as corrected. (Baird/Alviar: 5-0).

VII. Director's Report

The Executive Director reported that the tenant of 130 Lake Street, Apt. #6 called to inform the Board that the landlord had filed a court action concerning the tenant's agreement to withdraw her rent increase petition and to pay a rent increase effective September 1, 1981, if she chose not to move before that date.

The Executive Director also reported that during the Board of Supervisors roll call, Supervisor Nelder introduced a request on behalf of Supervisor Kopp regarding the owner-occupied exemption under the Rent Stabilization Ordinance.

VIII. Adjournment

President Flynn adjourned the meeting at 8:05 p.m.

9/2/81:iu



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 8, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

DOCUMENTS DEPT

I. Call to Order

SEP 8 1981

President Flynn called the meeting to order at 5:30 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Alviar; Baird; Flynn
Alternates: Anderson; Fung; Payne
Commissioners Not Present: Horsley; Saunders
Alternates: Neves; Vurek
Staff Present: Hernandez; Francis; O'Hearn

III. Consideration of Appeals

A. 642 Alvarado Street

Landlord appealed the Hearing Officer's decision which granted certain rent increases in excess of the guideline due to evidence of comparables, but less than the amount requested by Landlord. The decision denied a PG&E pass-through pending correct recalculation upon submission of evidence. Landlord's appeal claimed the Hearing Officer did not consider fully evidence of comparables and therefore should have granted additional increases, especially in light of increased operating costs.

MSF: To accept the appeal and remand the case to a new Hearing Officer for a new hearing. (Payne/Flynn: 2-3, Payne and Flynn assenting)..

MSC: To remand the case to the original Hearing Officer: 1) for computation of PG&E pass-through; 2) to consider Landlord's entitlement to any increase based on capital improvement costs; and 3) in any event, to grant rent increases of not less than 7 percent. (Baird/Alviar: 3-2, Payne and Flynn dissenting).

B. 1091 Bush Street #512

Landlord appealed the Hearing Officer's decision which denied a rent increase in excess of the guidelines. Landlord's appeal claimed that the increase sought on the basis of capital improvements should have been granted although such increase appears to have been granted by a previous decision one year ago.

MSC: To deny this appeal. (Payne/Alviar: 4-1,
Flynn dissenting).

C. 37 Broderick Street

Landlord appealed the decision of the Hearing Officer which found that the tenant has the right to re-occupy the premises which were previously damaged by fire. Landlord has not allowed Tenant to reoccupy the premises at the former rent adjusted in accordance with the Ordinance and claims on appeal that tenant was not the original tenant and that costs of rehabilitation are being compiled.

MSC: To combine the consideration of this appeal with the Board hearing on consideration of the alleged wrongful eviction. (Payne/Baird: 5-0).

IV. Consideration of Allegation of Wrongful Eviction

A. Hearing - 37 Broderick Street

The Board commenced a hearing on this case at 6:30 p.m. Both parties were present. Tenants were represented by their attorney and Landlords were represented by an agent for the San Francisco Real Estate Investment Club. Issues presented were whether Tenants were considered "tenants" for purposes of the Ordinance, whether the premises had been rehabilitated such that Tenants could re-occupy, and the amount of rent for the premises on reoccupation.

MSC: 1) To uphold the Hearing Officer's decision regarding the allowable rent increase; 2) that tenants Chanelis and Hinkle have the right to reoccupy the premises; and 3) that any attempt to deny such reoccupation would constitute an unlawful eviction. (Payne/Alviar: 5-0).

The hearing terminated at 7:30 p.m.

V. Communications

The Executive Director received from the landlord a copy of the agreement signed by the tenant at 130 Lake St., #6, regarding the withdrawal of the tenant's petition with the Rent Board.

The Rent Board was served litigation papers concerning Landlord's action contesting the Board's decision on appeal regarding 300 - 310 28th Avenue.

VI. Approval of Minutes

MSC: To approve the minutes of September 1, 1981, as corrected. (Payne/Baird: 5-0).

VII. Director's Report

The Executive Director and staff reported on the agenda for the upcoming session of the Hearing Officer's training.

The Executive Director also reported on the break-in of the Rent Board office which occurred the night of September 1, 1981.

VIII. Old Business

A. 1222 21st Avenue, Apts. #2 and #4

Commissioner Horsley submitted a written analysis for Board discussion of the decision on this appeal.

IX. Calendar Items

Commissioner Baird noted the following issues for discussion to be scheduled on next week's agenda:

- 1) implied warranty of habitability;
- 2) Board outreach in the community.

X. Adjournment

President Flynn adjourned the meeting at 8:30 p.m.

9/10/11:iu



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, Sept. 15, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

DOCUMENTS DEPT.

SEP 24 1981

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Flynn called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: Alviar; Flynn;
Alternates: Anderson; Fung; Payne;
Commissioners not Present: Baird; Horsley; Saunders;
Alternates: Neves; Vurek;
Staff Present: Hernandez; O'Hearn

Commissioners Baird and Horsley appeared on the record at 5:37 p.m.

Commissioner Fung appeared on the record from 6:15 until 7:45 p.m.

III. Approval of Minutes

MSC: To approve the minutes of September 8, 1981 as corrected. (Alviar/Payne: 4-0).

IV. Decision on Appeal

A. 1222- 21st Ave. Apts. 2 and 4

The Board discussed this appeal case heard de novo on September 1, 1981. Issues concerned rent increases due to operating and maintenance increases, capital improvement costs, and PG&E pass-through. Although Landlord submitted many pages of evidence, the Board noted that documentation of operating and maintenance expenses was not complete. However, documentation of capital improvement costs and PG&E bills was sufficient.

MSC: That the rents shall be established at the former rent plus 7%, plus capital improvement costs of \$4.65/month, plus a PG&E pass-through of \$6.64/month; and that effective dates of rent increases are June 15, 1981 at to Apt. 2 and April 20, 1981. (Horsley/Payne: 5-0).

V. Approval of Board Decision

A. 37 Broderick

As staff was unable at this time to prepare a written decision for the Board, the Board agreed to postpone approval of a written decision until next week's meeting.

VI. Communications

The Executive Director received from the Marin County Board of Realtors a written request for a copy of the San Francisco Rent Ordinance and Rules and information regarding evictions.

VII. Director's Report

The Executive Director reported on the following items:

- A. The Finance Committee and the Planning, Housing and Development Committee of the Board of Supervisors will hold a public hearing on September 16, 1981 regarding the final proposal of the 1982 Community Development Program and Housing Assistance Plan.
- B. Statistical tables on Rent Board activities have been prepared for the Rent Board's annual report. The Board requested further statistical information concerning settlements of rent increase disputes.
- C. The first of a two-day training session for Hearing Officers was held on September 12, 1981. Commissioner Fung was in attendance and provided additional comments to the Board.

VIII. Appeal Hearing

- A. 1000 Montgomery St. #5

President Flynn was excused from this hearing and Commissioner Fung appeared on the record for this appeal matter. Commissioner Baird presided over the hearing.

Both parties, along with representatives and witnesses were present. The hearing commenced at 6:15 p.m. Issues concerned a rent increase for former manager of the building who has resided there since 1942, and became manager in 1962. An additional issue, arising from this situation, and initially brought up on appeal, was whether the tenants were considered "tenants" for purposes of the Ordinance and therefore within the jurisdiction of the Rent Board. The Board considered this issue at the outset and determined as follows:

MSC: That the Rent Board has jurisdiction in this matter. (Payne/Horsley: 5-0).

The hearing continued and both sides presented evidence and testimony. At the termination of the hearing at 7:25 p.m., the Board asked the parties if they might come to an agreement among themselves. As the parties could not agree, the Board continued discussion of a decision on this appeal.

MSC: To establish the rent at \$186.83/month (\$157 plus 19%), effective June 11, 1981; to allow Landlords to take possession of the garages; that the new amount of rent shall be payable on October 1, 1981; and any retroactive amount owed shall be forgiven in exchange for Tenants' giving up the use of garages. (Horsley/Alviar: 4-1, Payne dissenting).

IX. New Business

- A. Commissioner Baird initiated discussion on breach of warranty of habitability and distributed copies of relevant portions of the California Supreme Court decision on Green v. Superior Court and the California Civil Code. The Board discussed the issue as compared and related to the meaning of decreased services under the Ordinance. The Board determined that a finding of breach of habitability would justify denial of a rent increase, but that the Board would not have jurisdiction to excuse a tenant's obligation to pay rent. The Board requested the Executive Director to draft a policy statement for the Board's approval.
- B. The Board discussed its outreach and effectiveness in various sections of the community. Concerns are outreach to outer and ethnic areas of the city.

X. Calendar Items

The Board scheduled a discussion of the issue of comparable rents for next week's Board meeting.

XI. Adjournment

President Flynn adjourned the meeting at 8:25 p.m.

9/17/81:ap

City and County of San Francisco

Amended Minutes
Residential Rent Stabilization and
Arbitration Board



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 22, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

DOCUMENTS DEPT.

I. Call to Order

President Flynn called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Alviar; Horsley; Saunders; Baird; Flynn

Alternate: Fung

Commissioners not Present: Alternates: Anderson; Neves; Payne

Staff Present: Hernandez; O'Hearn

Commissioner Anderson appeared at the meeting at 5:40 p.m.

Commissioner Horsley left the meeting at 6:00 p.m. and Commissioner Anderson appeared on the record thereafter.

III. Announcement

Commissioner Horsley has accepted a new job which will require her leaving the country shortly, and therefore she regretfully tendered her resignation from the Rent Board.

IV. Approval of Minutes

MSC: To approve the minutes of September 15, 1981.
(Baird/Alviar: 5-0.)

V. Approval of Decisions

A. 37 Broderick

MSC: To approve this decision by the Board, subject to modifications by President Flynn. (Baird/Alviar: 5-0.)

B. 1222- 21st Ave. #2 and #4

A written appeal decision on this case was not yet completed for Board approval.

C. 1000 Montgomery St. #5

MSC: To approve this appeal decision as corrected by Commissioner Horsley. (Baird/Alviar: 4-0.)
(President Flynn was excused from this vote.)

VI. Communications

The commissioners and staff of the Rent Board received a post card sent by Commissioner Saunders from Venice, Italy.

VII. Director's Report

The Executive Director reported on the following items:

- A. A statistical table regarding monthly distribution of rent petitions settled before hearing was prepared for the Board's annual report.
- B. A draft policy directive to Hearing Officers regarding decrease in housing services and failure to perform normal maintenance and repairs was prepared for the Commissioners. Commissioner Baird volunteered to make revisions for discussion/approval by the Board at next week's meeting.
- C. Draft amendments to Board Rule and Regulation section 1.22, concerning utility pass-throughs, was prepared. The Board will review the draft and resume discussion at next week's meeting.
- D. The second day of the two-day training session for Hearing Officers was held on September 19, 1981. Commissioners Flynn, Fung, Baird and Payne attended and provided input on Board policy for the Hearing Officers. The Board expressed its gratitude to the Executive Director, staff, and Hearing Officers who organized and participated in the training session.
- E. Supervisor Britt introduced a request to the City Attorney to draft provisions for a commercial rent ordinance.
- F. The Board of Supervisors has postponed its consideration of amendments to the Rent Stabilization Ordinance until October 20, 1981.
- G. The Board of Supervisors, joint committees have continued its hearings to October 18, 1981, on approval of the Office of Community Development funding.
- H. The Rent Board received its seventh computer run on the rent decisions indexing project. A new volunteer, Catherine Day Germany, is now working on the project.
- I. The Rent Board has hired two new law clerks.

VIII. Old Business

- A. 1915 Baker St. #3

In considering the appeals regarding this unit, the Board voted on August 4, 1981 to remand the case with instructions to the Hearing Officer. The Board, at this meeting, discussed its prior action and the policy question of remands where the Board determines a finding of fact other than that determined by the Hearing Officer.

MSC: To rescind the vote of August 4, 1981 on this appeal case. (Baird/Alviar: 5-0.)

MSC: To remand the case for de novo hearing. (Baird/Alviar: 5-0.)

IX. New Business

The Board discussed the issue of comparables used in determining rent increases. President Flynn brought up the use of market rents as a benchmark in determining rents and then applying a discount factor and percentage increase maximum. The Board determined to continue this discussion further upon more research.

X. Calendar Items

At next week's meeting, the Board will consider draft amendments to its Rules and Regulations on utility pass-through (section 1.22) and Board meetings. (section 2.14).

XI. Adjournment

President Flynn adjourned the meeting at 7:15 p.m.

9/23/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 29, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

DOCUMENTS DEPT.

OCT 1 7 1981

I. Call to Order

President Flynn called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Saunders; Baird; Flynn;
Alternates: Anderson; Payne; Fung
Commissioners not Present: Alviar;
Alternates: Neves; Vurek
Staff Present: Hernandez; O'Hearn

III. Consideration of Appeals

A. 978 Valencia St. Apts. 301 and 304

Two tenants appealed the Hearing Officer's decision on a landlord's petition which allowed a PG&E pass-through, rent increases in excess of the guidelines based on capital improvement costs and increased operating expenses. Tenants contend that the decision conflicts with a previous decision regarding their units, in which another Hearing Officer denied the guideline increases until landlords' completion of mandated repairs. Tenants claim that such repairs have not been made and that landlords have not submitted an endorsed declaration from the Bureau of Building Inspection, as required by the first rent decision. The current decision considered testimony of the Building Inspector at the recent hearing as an adequate substitute for a written statement by the Bureau as the landlords' compliance with heating requirements.

MSC: To deny these appeals. (Baird/Saunders: 4-0.)

B. 713 Clementina St., Apt. A

Landlord appealed the Hearing Officer's decision which denied a rent increase due to the fact that tenants had not yet resided at the premises for twelve months. In her appeal, landlord states she was unable to attend the hearing because she is sick. At the time of the scheduled hearing, a staff member of the Rent Board called landlord who at that time stated she would not attend the hearing because she was indisposed. Landlord's appeal complains about the character of the tenants.

MSC: To deny this appeal. (Saunders/Anderson: 4-0.)

C. 2330 Cabrillo St.

Landlord appealed the Hearing Officer's decision which denied a rent increase in excess of the guidelines due to landlord's failure to perform ordinary repair and maintenance on tenant's unit after

tenant's repeated requests to do so. In his appeal, landlord claims that tenant agreed to rent the unit in its present "as is" condition.

MSW: To deny this appeal. (Anderson/Saunders)

MSC: To accept the appeal and schedule a hearing on the record before the full Board. (Saunders/Anderson: 4-0.)

D. 1515 Gough St. #6

Landlord appealed the Hearing Officer's decision which denied a rent increase over the guidelines. Landlord did not appear at the hearing and his appeal claims that he was not notified of the hearing as notice apparently was mailed to an incorrect address.

MSC: To accept the appeal and remand the case for a new hearing before a Hearing Officer. (Baird/Anderson: 4-0.)

IV. Approval of Minutes

MSC: To approve the minutes of September 22, 1981, as modified. (Baird/Saunders: 4-0.)

V. Approval of Appeal Decision

A. 1222- 21st Ave., Apts. 2 and 4

MSC: To approve this appeal decision, subject to modifications by President Flynn. (Baird/Saunders: 4-0.)

VI. Communications

- A. The Board received a copy of Commissioner Horsley's letter to Mayor Feinstein expressing her regret that she must resign as a Tenant Commissioner on the Rent Board.
- B. President Flynn received a letter from the attorney for De Wolf Realty requesting the Board's concurrence of a new lease with provisions regarding new and original co-tenants. The Board requested staff to draft a reply.

VII. Director's Report

The Executive Director reported on the following matters to the Board:

- A. The Community Development Unit of the Rent Board will hold a workshop on the rights and responsibilities of both landowners and tenants in the maintenance of their homes. The workshop will be scheduled for the afternoon of November 5, 1981.

- B. On pending litigation against the Rent Board, the court denied a motion to dismiss the case. The Rent Board received extensive requests for admissions and interrogatories to answer.

VII. Old Business

- A. Commissioner Baird revised the draft Policy Directive to Hearing Officers on the issues of decrease in housing services and failure to perform normal maintenance and repairs. The Board will consider the directive for approval at the next Board meeting.
- B. President Flynn submitted proposed objective guidelines for adjusting rents on the basis of comparables.
- C. President Flynn volunteered to draft a Policy Directive for Hearing Officers on the issue of capital improvement cost increases related to base rent.

IX. New Business

The Board discussed draft proposed amendments to the Board Rules and Regulations on PG&E pass-through. In particular, the Board expressed concern over the transition period in implementing a new rule.

Commissioner Saunders provided revisions to the draft of the proposed amendment to the utility pass-through rule. The Board will discuss further the proposed amendment at the next Board meeting.

X. Calendar Items

The Board will schedule hearing on the appeal regarding 2330 Cabrillo Street during the regularly scheduled Board meeting on October 13, 1981.

XI. Remarks from the Public

Landlord-Appellant for the property located at 130 Lake Street appeared before the Board to request correction of an error in the Hearing Officer's decision as to a tenant's previous withdrawal of petition.

MSC: In that the Board is concerned that a technical error may have been made regarding the allowable rent for 130 Lake Street, apt. 8, the Hearing Officer is instructed to consider the positions of both the landlord and tenant and render a decision for that unit accordingly.
(Baird/Saunders: 4-0.)

XII. Adjournment

President Flynn adjourned the meeting at 7:15 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, October 6, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:43 p.m.

II. Roll Call

Commissioners Present: Alviar; Saunders; Flynn;
Alternates: Anderson; Fung; Payne
Commissioners not Present: Baird
Alternates: Neves; Vurek
Staff Present: Hernandez; O'Hearn

Commissioner Alviar left the meeting at 7:00 p.m.

III. Approval of Minutes

MSC: To approve the minutes of September 29, 1981,
as corrected. (Saunders/Anderson: 4-0).

IV. Communications

The Board received a copy of a letter dated September 30, 1981 to the City Attorney from the Director of Property for the Real Estate Department. The letter concerned the Real Estate Department's interpretation of sections 37.7(a) and (b), of the Rent Ordinance as applied to solar installations.

V. Director's Report

The Executive Director reported to the Board on the following matters:

- A. The Board of Supervisors voted (7-2) to extend the Rent Ordinance to April 1, 1982. Hearings and consideration of proposed amendments will continue during the month of October.
- B. The Executive Director met with representatives of the Bureau of Building Inspection (BBI) concerning BBI amendments to the Rehabilitation Assistance Program. BBI proposes to require the Rent Board to handle the appeal procedures for the Program.
- C. Installation of carpeting in the Rent Board offices has begun.
- D. The joint committee of the Board of Supervisors will continue meetings on October 13, 1981, concerning the budget of the Office of Community Development.

VI. Old Business

- A. The Board discussed the following issues for Policy Directives and determined to continue discussion at the next Board meeting.
 - 1. Commissioner Saunders proposed changes of the directive regarding decrease in services or failure to make repairs.
 - 2. President Flynn distributed to the Commissioners a working draft for a directive regarding capital improvement increases.
- B. The Board discussed proposed amendments to the Board Rule and Regulation regarding utility pass-through. Discussion centered on transition and the effective date of the new rule.

VII. New Business

President Flynn distributed to the Commissioners a written summary of the Rand Report on rent control in Los Angeles.

VIII. Calendar Items

An appeal hearing is scheduled before the Board for the next meeting.

IX. Adjournment

President Flynn adjourned the meeting at 7:05 p.m.

10/7/81:ap

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Amended

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, October 13, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

DOCUMENTS DEPT.

OCT 20 1981

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Flynn called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Flynn; Alviar;
Alternates: Anderson; Fung; Payne
Commissioners not Present: Baird; Saunders;
Alternates: Neves; Vurek
Staff Present: Hernandez; O'Hearn

III. Approval of Minutes

MSC: To approve the minutes of October 6, 1981.
(Alviar/Anderson: 4-0).

IV. Consideration of Appeals

A. 106 Landers St. #3

Landlord appealed the Hearing Officer's decision which denied in part a rent increase due to Landlord's failure to make repairs after having been requested to do so by Tenant and noted in a prior decision of a Hearing Officer in 1979. Landlord sought justification of the current rent increase on the basis of comparables for which the Hearing Officer granted a 1½ percent rent increase over the guidelines. Landlord's appeal contested the findings of his failure to make requested repairs.

MSC: To deny this appeal. (Anderson/Alviar: 4-0).

B. 501 Diamond St. #2

Landlord appealed the Hearing Officer's decision which allowed a rent increase in addition to the guideline due to an additional tenant residing on the premises. Neither Landlord nor his representative appeared at the hearing. Landlord's appeal claimed she did not appear at the hearing because she was not informed by her attorney to do so. Landlord also claimed she believed the rent increase had been rescinded pending the outcome of eviction proceedings.

MSC: To accept the appeal and remand the case for a new hearing before a Hearing Officer.
(Payne/Alviar: 4-0).

V. Communications

- A. The Board received a copy of a letter to former Commissioner Horsley from the Mayor who expressed regret in her resignation from the Rent Board.
- B. The Executive Director received a letter from the Director of Property for the Real Estate Department regarding a landlord's future application for certification of rent increase based on capital improvement costs in replacing a boiler heating system. As the tenants eventually will pay for their own space or space and hot water heating, the Rent Board is requested to assist the Real Estate Department in establishing the value of such utility service which the tenants will lose.

VI. Director's Report

The Executive Director reported on the following items:

- A. The Board of Supervisors approved \$80,000 funding under the Office of Community Development's Budget for the landlord/tenant counseling service administered by the Rent Board.
- B. The Rent Board will be holding a workshop on housing repairs which is scheduled for November 5, 1981.

VII. Appeal Hearing

- A. 2330 Cabrillo St.

The Board heard this appeal hearing on the record of the original hearing before a Hearing Officer. Both parties were present and provided arguments on the issue of whether the rent increase should be denied due to Landlord's failure to perform ordinary maintenance as requested by Tenant or should there be a decrease in the Tenant's rent because there has been a significant decrease in housing services.

After termination of the hearing, the Board discussed the amount of rent increase allowable in this case.

MSC: To vacate the decision of the Hearing Officer and to establish Tenant's rent effective August 1, 1981 at \$374/month, based on a 7 percent increase of \$22 and a capital improvement cost increase of \$32. (Payne/Alviar: 4-0).

VIII. Old Business

- A. The Board approved a memorandum to Hearing Officers regarding a decrease in housing services or failure to perform maintenance and repairs.
- B. The Board discussed additional wording changes on the proposed amended Rule and Regulation regarding utility pass-through.

IX. Calendar Items

The Board will schedule next week approval of a written appeal decision on the 2330 Cabrillo St. case heard at this meeting.

X. Adjournment

President Flynn adjourned the meeting at 7:22 p.m.

10/15/81:ap

City and County of San Francisco

Residential Rent Stabilization and Arbitration Board



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 20, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

DOCUMENTS DEPT.

I. Call to Order

President Flynn called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Alviar; Anderson; Flynn; Saunders;
Alternates: Fung; Payne
Commissioners not Present: Baird;
Alternates: Neves; Vurek
Staff Present: Hernandez, O'Hearn

III. Approval of Minutes

MSC: To approve the minutes of October 13, 1981, as corrected. (Anderson/Alviar: 4-0.)

IV. Approval of Decision on Appeal

A. 2330 Cabrillo St.

MSC: To approve this Appeal Decision, as amended. (Saunders/Alviar: 4-0.)

V. Communications

- A. The Board received a copy of the Mayor's letter dated October 16, 1981 to Commissioner Anderson in which the Mayor changed Commissioner Anderson's Board status from an alternate member to that of a regular tenant member.
- B. The Mayor has forwarded to the Board letters sent to her by various residents concerned about commercial rent control.

VI. Director's Report

- A. The Executive Director reported on current action by the Board of Supervisors regarding commercial rent control.
- B. Work on the computer indexing project on Hearing Officer's decisions has been completed up to April 1980.

VII. Old Business

- A. The Board discussed final revisions to amend Rule and Regulation 1.22 regarding utility pass-through. The Board previously has held a public hearing on this proposed amendment and had voted to amend the rule.

MSC: To adopt the amended language of Rule 1.22.
(Saunders/Alviar: 4-0.)

- B. The Board discussed new language for Rule and Regulation 2.14 which will change mandatory Board meetings from every Tuesday to the first Tuesday of the month. The Board previously had held a public hearing on this proposed amendment and had voted to amend the Rule.

MSC: To adopt the amended language of Rule 2.14.
(Alviar/Anderson: 4-0.)

VIII. Calendar Items

The Board will schedule a meeting next Tuesday for consideration of appeals and any other pending business.

IX. Adjournment

President Flynn adjourned the meeting at 6:25 p.m.

10/22/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, October 27, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

2
7/81
I. Call to Order

President Flynn called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Anderson; Saunders; Flynn
Alternates: Fung; Payne
Commissioners not Present: Alviar; Baird
Alternate: Neves
Staff Present: Hernandez, O'Hearn

Commissioner Baird appeared on the record at 5:47 p.m.

III. Approval of Minutes

MSC: To approve the minutes of October 20, 1981,
as corrected. (Saunders/Alviar: 4-0.)

IV. Consideration of Appeals

A. 573 Birch St.

Landlord appealed the decision of the Hearing Officer concerning an increase above the guidelines due to increased debt service and comparables. The appeal claimed discrepancies between this decision and a previous decision by a Hearing Officer regarding the same building. However, both decisions limited the rent increases to the Consumer Price Index percentage since the last increases.

MSC: To deny this appeal. (Saunders/Anderson: 4-0.)

B. 95 Grandview Ave. #1

Landlord appealed the Hearing Officer's decision which granted an increase over the guidelines based on variable rate mortgage. The appeal claimed that the increase granted was inconsistent with the amount Tenant offered to pay in compromise. However, Landlord did not accept the compromise or offer another alternative. The Hearing Officer granted the increase in addition to the guidelines, rather than in addition to the amount Tenant offered to pay.

MSC: To deny this appeal. (Saunders/Anderson:
4-0.)

C. 1220- 14th Ave. #107

By letter dated November 29, 1980, Tenant originally appealed the Hearing Officer's decision dated November 25, 1980 and rendered

on Landlord's petition. Although the Hearing Officer responded to the letter by writing to the Board on December 11, 1980, the Board failed to consider the original appeal until the present amended notice of appeal was filed October 15, 1981. The appeal claims that the original decision failed to aggregate operating and maintenance expenses which were the basis of the rent increase granted. Since the date of the original decision, Tenant has received four additional increases, the last two of which Tenant has protested by filing petitions which are scheduled for hearing on November 9, 1981.

MSC: To accept the appeal and remand the case for hearing and consolidate this case with those pending which are scheduled before a Hearing Officer. (Saunders/Baird: 4-0.)

D. 144 Dolores St.

Landlord appealed the Hearing Officer's decision rendered on Landlord's petition which sought an increase exceeding the guidelines on the basis of comparables. The Hearing Officer's decision found that Landlord did not meet his burden of proof in justifying the increase which, if granted, would be limited to the Consumer Price Index percentage since the last increase. In his appeal, Landlord claimed he has new evidence which would justify a greater rent increase. Tenants' attorney submitted a rebuttal to the appeal. Landlord appeared at the Board meeting to present arguments in favor of granting the appeal.

MSC: To accept this appeal and schedule a hearing de novo before the full Board. (Saunders/Baird: 3-1; Anderson dissenting.)

V. Communications

- A. The Board received a copy of Commissioner Vurek's letter to the Mayor dated October 22, 1981, in which she regretfully resigned from her position as Alternate Tenant member of the Board.
- B. Commissioner Flynn received a letter dated September 4, 1981 from the San Francisco Board of Realtors requesting a copy of the amended Rule and Regulation concerning utility pass-throughs.
- C. Chuck Finney from KQED-FM called the Executive Director to request an appearance by the Board President and Executive Director on a public affairs program scheduled on Wednesday, November 18, 1981.

VI. Director's Report

The Executive Director reported on the following items:

- A. The housing repair workshop sponsored by the Rent Board is scheduled on November 5, 1981
- B. Construction work on the Rent Board offices has been completed.

VII. Old Business

The Board discussed present and alternative means of evidence for establishing rent increases based on comparable units.

VIII. Calendar Items

The Board will schedule the appeal hearing for 144 Dolores Street during its meeting on November 10, 1981. Also scheduled for that and the previous Board meetings are considerations of other appeals.

IX. Adjournment

President Flynn adjourned the meeting at 7:30 p.m.

10/28/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, November 3, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Anderson; Baird; Flynn
Alternates: Fung; Payne
Commissioners not Present: Alviar; Saunders
Alternate: Neves
Staff Present: Hernandez, O'Hearn

III. Approval of Minutes

MSC: To approve the minutes of October 27, 1981
(Baird/Anderson: 4-0.)

IV. Consideration of Appeals

A. 402 Haight St. #2

Landlords appealed the Hearing Officer's decision which granted an increase exceeding the guidelines, but denied the full amount sought by the Landlords. Increases were granted due to increased operating expenses and capital improvements. The increase sought on the basis of increased debt service and comparables were denied. The appeal contests such denial, as well as the Hearing Officer's failure to allow a PG&E pass-through. Landlords were present at the meeting and provided comments in support of their appeal.

MSF: To accept the appeal and schedule a de novo hearing before the full Board limited to the issue of a rent increase based on a change of debt structure. (Baird/Payne: 2-2; Anderson and Flynn dissenting.)

MSF: To accept the appeal and remand the case to the original Hearing Officer for a new hearing limited to the issues of variable rate mortgage and PG&E pass-through. (Anderson/Flynn: 2-2; Baird and Payne dissenting.)

MSC: To postpone consideration of this appeal until next week's Board meeting. (Payne/Anderson: 4-0.)

B. 745 Sutter St.

Landlord appealed the Hearing Officer's decision regarding his petition for rent increases exceeding the guidelines for eight units in the building. The decision found that Landlord had not justified increases on the basis of increased operating expenses or on evidence of comparable rents in the same area. The appeal claims that Landlord's evidence of rents in one building was sufficient and superior to tenants' evidence to prove that the subject rents are significantly below those of comparable units and therefore justifies the increases sought on the basis of increased debt service.

MSC: To accept the appeal and remand the case to a Hearing Officer for a new hearing limited to application of Board Rule and Regulation 6.10(c). (Baird/Anderson: 4-0.)

C. 30 Gardenside Dr., Apts. 4, 5 and 7

Landlord appealed the Hearing Officer's decision which allowed capital improvement costs and a PG&E pass-through in addition to the guideline increases. The appeal contested the pass-through findings and the disallowance of both additional capital improvement costs and increased operating expenses.

MSC: To accept the appeal and remand the case to a new Hearing Officer for a hearing de novo limited to the issue of increased operating and maintenance expenses and to account for taxes on a cash basis. (Baird/Payne: 4-0.)

D. 129, 129A, 131 Ord St.

Landlord appealed the Hearing Officer's denial of Landlord's motion to dismiss Tenant's petitions due to untimely filing after the effective date of the rent increases. The appeal claims that timely filing of petitions is mandatory. The appeal noted that the petitions were filed more than four months after the effective date of the increases, whereas Tenants' petitions indicate a filing date less than two weeks after the proposed increase. At the hearing the parties stipulated to guideline rent increases.

MSC: To deny this appeal. (Payne/Anderson: 4-0.)

V. Communications

The Board received letters of resignation from two Hearing Officers: D. J. Soviero and Richard Warren.

VI. Director's Report

The Executive Director submitted a draft of the Rent Board Annual Report for discussion by the Commissioners.

VII. Old Business

The Board discussed methods for determining comparable rents and for justifying rent increases on the basis of transfers of property, other than purchases. The Board determined to schedule a public hearing on these issues to consider amending the Board Rules and Regulations.

VIII. Calendar Items

The Board will schedule a public hearing to consider amending Rules and Regulations, as described above on November 24, 1981 during the Board's regular meeting time. The Board will hold a meeting on November 10, 1981 to consider appeals and hold an appeal hearing. Additional appeals will be considered during the Board meeting on November 17, 1981, at which time the Board will consider the final draft of the Annual Report.

IX. Adjournment

President Flynn adjourned the meeting at 8:25 p.m.

11/5/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 10, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Alviar; Anderson; Baird; Flynn; Saunders
 Alternates: Fung; Payne
 Commissioner not Present: Neves
 Staff Present: Hernandez; O'Hearn

III. Approval of Minutes

MSC: To approve the minutes of November 3, 1981.
 (Baird/Anderson: 5-0.)

IV. Consideration of Appeals

A. 402 Haight St. #2

The Board continued its consideration of this case previously discussed at the Board's last meeting. Landlords submitted a Supplemental Statement regarding their appeal and again were present at this meeting.

MSC: To accept the appeal and schedule a de novo hearing before the full Board limited only to the issue of a rent increase based on an increase in refinancing. (Baird/Anderson: 5-0.)

B. 2655 Polk St.

The Hearing Officer indicated to staff that he wished to submit a written response to the appeals by both the landlord and the tenants. However, the staff was unable to timely provide copies of certain file materials needed by the Hearing Officer for his review of the case.

MSC: To defer consideration of these appeals until the Board's meeting next week. (Saunders/Anderson: 5-0.)

C. 235- 27th Ave. #4

Landlord appealed the Hearing Officer's decision which denied any rent increase based upon the parties' original agreement that the tenant will handle minor maintenance and repairs and the landlord will not raise the rent except for unforeseen expenses. In his appeal, Landlord claimed that such was not exactly the agreement and that he had a new roof installed.

MSC: To accept the appeal and remand the case for a new hearing before a Hearing Officer. (Baird/Alviar: 5-0.)

D. 417 Gough St. #323

Landlord appealed the Hearing Officer's decision which allowed a 7 percent guideline increase on the actual amount of rent Tenant paid by agreement with Landlord prior to the notice of rent increase. The appeal claimed the Hearing Officer erred in determining the base rent, taking into account a \$10.00 courtesy discount to Tenant because he was formerly an employee of Landlord.

MSC: To deny this appeal. (Sauders/Alviar: 5-0.)

E. 284 Golden Gate Ave. #22

Landlord appealed the Hearing Officer's decision which allowed an increase exceeding the guidelines based on capital improvement costs and increased operating and maintenance expenses. Landlord's appeal claimed that the number of rooms applied in the calculations was incorrect and that the capital improvement should have been applied entirely, rather than partly as calculated by the Hearing Officer.

MSC: To remand the case to the original Hearing Officer to determine the exact number of rooms and to re-view allocation of the capital improvement cost. (Saunders/Alviar: 5-0.)

V. Communications

The Board has received various letters commending the staff and Hearing Officers for their work.

The Executive Director received a post card from Commissioner Neves from Ontario, California.

The Executive Director sent a memorandum to the Director of Property to request additional office space next year.

VI. Director's Report

The Executive Director reported on the following items:

The Recorder newspaper published an article on November 14, 1981 regarding the District Attorney's suit against Angelo Sangiacomo for violating the Rent Ordinance provision that a landlord may not raise a new tenant's rent for the first 12 month's of the tenant's occupancy.

Additionally, the City Attorney's office is handling various civil lawsuits against the Rent Board.

A private eviction lawsuit is being appealed on the basis of the lower court's failure to grant a demurrer where the landlord's notice to vacate was not in compliance with section 37.9(b) of the Ordinance requiring the landlord's notice to state that advice regarding the notice to vacate is available from the Rent Stabilization and Arbitration Board.

Finally, the staff has received an increasing number of informational requests from the public and is attempting to meet these needs.

VII. Old Business

Commissioner Anderson reported that the Rent Board's workshop on repairs held on November 5, 1981 was very informative. She discussed information learned regarding the implied warranty of habitability expanded in the state supreme court's decision of Knight v. Hallstamner and requested that the Board receive a summary of the case. Commissioner Baird volunteered to provide this.

Commissioner Anderson also commented on the lack of direct contact between the Commissioners and the Board Hearing Officers and suggested some type of forum for more communication.

VIII. New Business

The Executive Director reported on the Board of Supervisor's committee hearing on November 4, 1981 regarding a proposed Energy Conservation Ordinance.

The Director also reported on the current status of the proposed Commercial Rent Control Ordinance. The Commissioners commented that it appears the Board is spending too much time on this issue.

IX. Appeal Hearing

A. 144 Dolores St.

The Board heard this case, which it accepted de novo on October 27, 1982, pursuant to Landlord's appeal. The hearing began at 6:40 p.m. and concerned the issue of a rent increase, limited to the Consumer Price Index (CPI) percentage since the last rent increase, on the basis of comparables.

After Landlord presented his argument in favor of granting the rent increase, Tenant's attorney proposed that the Board did not have the power to hold a de novo hearing. In accordance with Board Rule and Regulation 8.14, the appeal shall be held de novo only to the extent that the Board determines there are serious questions of fact. As this was not the case here, it was argued that the appeal should be limited to a review of the record. Tenant's attorney argued that the Hearing Officer did not err or abuse her discretion in making

her decision. Further, Tenant's attorney showed that some of Landlord's new comparables were not accurate.

The Board commented that equity controlled here where Landlord should not be prejudiced by incompetent counsel at the original hearing and therefore entitled Landlord to a de novo hearing. Further, the purpose of the Ordinance is to safeguard tenant's from excessive rent increases and, at the same time, to assure landlords fair and adequate rents consistent with federal anti-inflation guidelines.

Tenant's attorney noted that equity likewise should prevent Tenants from being prejudiced by Landlord's error and that prior to the original hearing Tenants offered to pay the increase allowable under the CPI limit.

The hearing terminated at 7:15 p.m. and the Board then discussed what the outcome should be.

MSC: To establish Tenant's rent at \$289.60/month (\$200 plus 44.8% CPI increase from January 1978), effective September 1, 1981. (Saunders/Alviar: 5-0.)

As Tenants have been paying \$226/month since September, the Commissioners requested the parties to make an appropriate arrangement for payment of additional rent allowed by the decision on appeal.

X. Calendar Items

A public hearing to consider amendments to the Rules and Regulations is scheduled for November 24, 1981.

The appeal hearing on 402 Haight St. #2 will be scheduled during the Board's regular meeting on December 1, 1981.

XI. Remarks from the Public

Tenant Dione Von Hein requested information on the Board's earlier consideration of the landlord's appeal regarding her unit at 235- 27th Ave. #2. As she was not present at the meeting during the consideration, the Board explained its decision to remand the case for a new hearing before another Hearing Officer.

XII. Executive Session

The Board went into executive session at 7:38 p.m. to discuss personnel matters.

XIII. Adjournment

The meeting was adjourned at 7:50 p.m.

City and County of San Francisco

Residential Rent Stabilization and Arbitration Board



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 17, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Alviar; Anderson; Baird; Flynn; Saunders

Commissioners not Present: Alternates: Fung; Neves; Payne

Staff Present: Hernandez

III. Approval of Minutes

MSC: To approve the minutes of November 10, 1981 as amended. (Anderson/Saunders: 5-0.)

IV. Granting of Postponement

Respondent (tenant) Samuel Jones of 402 Haight Street #2 requested a postponement of the December 1, 1981 scheduled hearing for the reason of his prior schedule to be out of town on that week.

MSC: To grant the postponement because of good cause. (Saunders/Anderson: 5-0.)

V. Consideration of Appeals

A. 2655 Polk Street

The Board continued its consideration of this appeal from the Board's last meeting. The Landlord is appealing the Hearing Officer's decision on 21 of the 23 units involved, based on his belief that the Hearing Officer erred in not considering the Landlord's PG&E computations. The Tenants are appealing the Hearing Officer's decision based on their belief that he should not have allowed some operation and maintenance expenses and his way of aggregating the expenses.

MSC: To deny the Landlord's appeal. (Saunders/Alviar: 5-0.)

MSC: To accept the Tenants appeal on the issue of operation and maintenance expenses, with a condition that the Tenants interested in the appeal sign a letter expressing who of the 21 are wishing to follow through on the appeal. (Saunders/Alviar: 4-1, Flynn dissenting.)

DOCUMENTS DEPT.

DEC 1981

RECEIVED
RECORDS SECTION

MSF: To order the Hearing Officer who will consider this remand, to make a determination in this matter whether a second rent increase in twelve months is justified. (Baird/Alviar: 2-3.)

B. 250 Point Lobos

Landlord appealed this Hearing Officer's decision of a remand of a previous decision that was appealed. The Landlord contents that the Hearing Officer erred in the PG&E computation.

MSC: To deny this appeal. (Anderson/Saunders: 5-0.)

C. 1826 B- 10th Avenue

The Landlord's attorney appealed the Hearing Officer's decision based on their contention that the Tenant did not filed a "timely" petition protesting a PG&E pass-through and therefore the Board had no jurisdiction.

MSC: To deny this appeal. (Anderson/Saunders: 5-0.)

D. 1600 Beach Street Nos. 101, 201, and 304

Landlord is appealing this decision on the grounds that the Hearing Officer made some technical error on this decision and incorrectly ruled on the issues of the garages. Landlord wishes to have a clarification of the rental agreement regarding garages.

MSC: To accept this appeal and remand to the same Hearing Officer to correct the technical errors and consider the question of the garages. (Saunders/Alviar: 4-1, Baird dissenting.)

VI. Approval of Decision

A. 144 Dolores Street

The Board received a draft copy of their decision on the hearing held in November 10, 1981.

MSC: To approve the decision as amended. (Saunders/Anderson: 5-0.)

VII. Communications

The Director received a letter from Travis Campbell protesting the quality of the Board's operation.

The Board received a letter from Covington Properties on procedural arrangement in regards to tenant/landlord relationship.

VIII. Director's Report

The Executive Director reported on the following items:

The Old Saint Mary's Housing workshop took place on Saturday, November 14, 1981. The Director, Ms. Susan Francis and two Hearing Officers (Mr. Shepard and Mr. Curran) took part. Between 100 and 150 people were in attendance.

There appears to be an increase in evictions in San Francisco, based on inquiries to the Board, probably because of the economic situation and also because fewer agencies are available to help.

Also, a report was given on statistics and progress on hearings, settlements, decisions, etc.

IX. Old Business

Commissioner Baird distributed a copy of the State Supreme Court Decision on Knight v. Hollsthammar.

The Board entered into extensive review of the draft of the Annual report, ideas for format were approved and suggested guidelines for staff continuation on the project.

X. Calendar Items

The Board suggested December 1, 1981 to discuss the final draft of the Annual report and the approval of the document.

The Board scheduled the hearing of 402 Haight Street #2 for December 15, 1981.

XI. Adjournment

The meeting was adjourned at 8:05 p.m.

11/19/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, November 24, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:30 p.m. 11/24/81

II. Roll Call

Commissioners Present: Alviar; Anderson; Baird; Flynn

Alternates: Fung; Payne

Commissioners not Present: Saunders

Alternate: Neves

Staff Present: Hernandez; Vitrano; Mitchell

Commissioner Catherine Duggan appeared on the record at 6:30 p.m.

The Board welcomed new Commissioner Duggan who was appointed by the Mayor
as the new tenant alternate to the Board on Monday, November 23, 1981.

III. Approval of Minutes

MSC: To approve the minutes of November 17, 1981 as
amended. (Baird/Alviar: 5-0.)

IV. Consideration of Appeals

A. 2240 Larkin St. #101 and 102

The Tenants are appealing the Hearing Officer's decision because they
believe that the Landlord failed to perform normal repairs and re-
placement as requested by the Tenants.

MSC: To deny this appeal. (Anderson/Payne: 5-0.)

V. Communications

The Director transmitted a letter from the Real Estate Department regard-
ing variable rent mortgages.

The Board received a copy of the letter from the Deputy City Attorney
regarding the proposed RAP amendments plus copies of the proposed
Ordinance changes.

The Director transmitted a copy of a letter submitted by Mr. Ralph
Coffman, Esq. resigning as a Hearing Officer due to the fact that a
partner in his law firm is representing clients before the Board.

VI. Director's Report

The Executive Director reported on the following items:

The progress on the Annual Report and its completion date targeted
for December 1, 1981.

The staff activities and workload.

VII. Public Hearing on Rules' Amendments

The Board accepted testimony on the issues of a) comparable rents, b) property transfers, other than rent, c) forced refinancing.

Sixteen witnesses testified on the matters and around sixty people were in attendance. The Board took the matter under submission and then directed the Director to prepare a draft to be distributed at next Tuesday's meeting for form and content. Later a public hearing will be held on the proposed changes.

XIII. Calendar Items

Commissioner Payne suggested that we discuss the issue of hardship at the next Board meeting.

IX. Adjournment

The meeting was adjourned at 9:45 p.m.

11/27/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, December 1, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

Vice-President Saunders called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Alviar; Anderson; Saunders; Baird

Alternates: Duggan; Fung; Payne

Commissioner not Present: Neves

Staff Present: Hernandez; O'Hearn

Commissioner Flynn appeared on the record at 5:40 p.m.

III. Approval of Minutes

MSC: To approve the minutes of November 24, 1981, as
amended. (Baird/Anderson: 5-0.)

IV. Consideration of Appeals

A. 2815 Van Ness Ave. #2

Tenant appealed the Hearing Officer's decision which denied a rent increase in excess of the Ordinance guidelines. The appeal, filed by Tenant's attorney, contends that Landlord's notice of increase was rendered null and void by Landlord's failure to apply for prior certification of the portion of rent increase sought in excess of the guidelines.

MSC: To deny this appeal. (Baird/Flynn: 5-0.)

B. 585 Page St., Apts. 5, 6, and 7

Landlord appealed the Hearing Officer's decision on remand, made pursuant to the Board's granting of Landlord's appeal of the previous decision by a Hearing Officer. The Board had granted the first appeal only as to the issue of capital improvements and instructed the Hearing Officer to consider the applicable interest rate. On remand, the Hearing Officer allowed Landlord 16 percent interest for one year and amortized this amount over the same period allowed for the capital improvement costs.

Landlord's appeal states that the amount of 22.25 percent interest, which he is presently paying annually on the loan, should be the figure amortized.

MSC: To postpone consideration of this appeal until
the Board's meeting next week.
(Saunders/Anderson: 5-0.)

- C. 30 Rosemont Pl., Apts. 3, 4, and 6 and
218 Lake Merced Hill North

Landlords appealed the Hearing Officer's decision which granted increases exceeding the guidelines. For the Rosemont Place building, the amount was based on increased operating and maintenance expenses. For the Lake Merced Hill N. building, the amount was based on an increase in variable rate mortgage. The appeal claims that additional increases should have been granted because monthly interest payments on the Rosemont Place building increased due to an adjustable rate mortgage and because operating and maintenance expenses increased for the Lake Merced Hill N. building.

MSC: To postpone consideration of this appeal until the Board's meeting next week. (Saunders/Anderson: 5-0.)

V. Communications

The Executive Director submitted a written draft of proposed amendments to part 6 of the Board's Rules and Regulations. The Board discussed proposed language and changes as related to last week's Public Hearing concerning possible amendments.

MSC: That any Commissioner wishing to propose amendments to part 6 of the Rules and Regulations shall do so in writing within two weeks, at which time the Board will consider draft language for distribution to the public and schedule a public hearing prior to final approval. (Baird/Alviar: 5-0.)

VI. Director's Report

The Executive Director met with a representative of the federal Department of Housing and Urban Development (HUD) regarding changes in HUD funding guidelines.

The Executive Director notified the Board that he would be out of town December 16th, 17th and 18th.

VII. Old Business

- A. Commissioner Anderson initiated some discussion concerning proposed amendments to the Rehabilitation Assistance Program (RAP) Ordinance and how the RAP Ordinance related to the Rent Ordinance.
- B. The Board discussed the Annual Report and determined to schedule final consideration in two weeks, at which time any additional comments are due from the Commissioners.

VIII. New Business

Commissioner Payne began Board discussion of hardship as a factor to be considered in Rent Board cases. Issues concerned what specific factors are included and how hardship becomes a determination in a decision.

IX. Calendar Items

The Board will schedule a meeting two weeks from this meeting for further discussion of proposed amendments to the Rules and Regulations and of the Annual Report. An appeal hearing also is scheduled during that meeting, and the Board will consider other appeals recently filed.

X. Remarks from the Public

Roy Christie, landlord for 680 Sutter St., was present at the meeting and requested a date certain on which the Board would consider his appeal filed on November 23, 1981 and supplemented on November 30, 1981. He was advised to contact staff member, Barbara O'Hearn, at the Rent Board office so she could notify him when consideration of this appeal would be scheduled on the agenda.

XI. Adjournment

The meeting was adjourned at 7:25 p.m.

12/2/81:ap

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, December 8, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

Commissioner Baird presided at this meeting called to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Alviar; Anderson; Baird;
Alternates: Duggan; Fung; Payne
Commissioners not Present: Flynn; Saunders
Staff Present: Hernandez; O'Hearn

III. Approval of Minutes

MSC: To approve the minutes of December 1, 1981.
(Anderson/Alviar: 5-0.)

IV. Consideration of Appeals

A. 585 Page St., Apts. 5, 6, and 7

Landlord appealed the Hearing Officer's decision on remand, made pursuant to the Board's granting of Landlord's appeal of the previous decision by a Hearing Officer. The Board had granted the first appeal only as to the issue of capital improvements and instructed the Hearing Officer to consider the applicable interest rate. On remand, the Hearing Officer allowed Landlord 16 percent interest for one year and amortized this amount over the same period allowed for the capital improvement costs. Landlord's appeal states that the amount of 22.25 percent interest, which he is presently paying annually on the loan, should be the figure amortized.

MSC: To deny this appeal. (Anderson/Payne: 5-0.)

B. 30 Rosemont Pl., Apts. 3, 4, and 6 and
218 Lake Merced Hill North

Landlords appealed the Hearing Officer's decision which granted increases exceeding the guidelines. For the Rosemont Place building, the amount was based on increased operating and maintenance expenses. For the Lake Merced Hill N. building, the amount was based on an increase in variable rate mortgage. The appeal claims that additional increases should have been granted because monthly interest payments on the Rosemont Place building increased due to an adjustable rate mortgage and because operating and maintenance expenses increased for the Lake Merced Hill N. building.

MSW: To deny this appeal. (Anderson/Alviar)

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- MSC: To accept the appeal and remand the case to a new Hearing Officer familiar with the issue of variable rate mortgage for a re-determination on that issue as to the Rosemont building. (Fung/Alviar: 5-0.)
- MSF: To deny the appeal regarding the Lake Merced Hill N. building. (Fung/Anderson: 2-3, Baird, Alviar and Payne dissenting.)
- MSC: To accept the appeal regarding the Lake Merced Hill N. building and remand the case to a Hearing Officer for a de novo hearing. (Payne/Alviar: 3-2, Anderson and Fung dissenting.)

C. 2792 Filbert St.

Landlord appealed the Hearing Officer's decision because he was unable to attend the hearing and his second request for a postponement of the scheduled hearing date was denied. The Hearing Officer denied the requested increases over the guidelines, one of which was to be effective August 1981 and one to be effective December 1981.

- MSC: To accept the appeal and remand the case for a new hearing. (Anderson/Payne: 4-1, Fung dissenting.)

D. 833 Jones St., Nos. 5, 7, 9, 10, 15, 16 and 18

Landlords appealed the Hearing Officer's decision which granted increases over the guidelines based on capital improvements and denied additional increases sought on the basis of projected improvements and increased debt service/comparables. The appeal claims that the Hearing Officer erred in determining that the rents are not significantly below those of comparable units in the same general area.

- MSC: To deny this appeal. (Anderson/Alviar: 5-0.)

E. 2128 Van Ness Ave. #104

Landlord appealed the Hearing Officer's decision rendered subsequent to Tenant's filing a Petition for Arbitration on the issue of Landlord's demand that Tenant pay for damages and a new refrigerator. The Hearing Officer found Landlord's demand a rent increase and denied the increase due to its being imposed less than twelve months since the last increase. The appeal claims that Tenant's complaint did not raise the issue of a rent increase, but instead concerned whether Tenant breached the rental agreement which provides that Tenant pay the cost of all repairs for damages to the premises.

- MSC: To deny this appeal. (Fung/Anderson: 4-1, Payne dissenting.)

- F. 1277- 8th Ave. #104, 106, 206
1279- 8th Ave. #206
1281- 8th Ave. #101, 103

Landlord appealed the Hearing Officer's decision which denied the rent increases sought due to their being imposed less than twelve months since the previous rent increases. The appeal claims that the increases should have been granted because the prior increases were granted subsequent to Landlord's filing a rent petition.

MSC: To deny this appeal. (Payne/Fung: 5-0.)

- G. 939- A Guerrero St.

Landlord appealed the Hearing Officer's decision which denied a rent increase in excess of the guidelines. Although the increase was sought on the basis of comparables, Landlord failed to provide evidence on this issue. In his appeal, Landlord claims he now has the facts as they should be and submits cost amortization worksheets and supporting documentation for capital improvements.

MSC: To deny this appeal. (Fung/Anderson: 5-0.)

- H. 623 Third Ave.

Landlord appealed the Hearing Officer's decision rendered subsequent to Tenant's filing both two Petitions for Rent Arbitration and a Report of Alleged Wrongful Eviction. Regarding the rent petition, the Hearing Officer found a reduction in services due to Landlord's denial of parking and storage access to Tenant. The appeal claims that the lease agreement did not contain a provision allowing Tenant to park in the garage and that Landlord permitted such only as a matter of "courtesy."

MSC: To deny this appeal. (Payne/Fung: 5-0.)

V. Communications

The Board received the following correspondence:

Mayor Feinstein's letter dated December 4, 1981 to Commissioner Neves acknowledging his resignation as a member of the Rent Board and thanking him for his outstanding service;

The Executive Director's memorandum dated December 7, 1981 to Deputy City Attorney, Katherine Pennypacker, commenting on proposed amendments to the Rehabilitation Assistance Program (RAP) Ordinance;

A memorandum to the Commissioners from Hearing Officer Ruth Astle, proposing an addition to the Rules to allow for an offer of proof procedure. The Board determined not to take any action on this matter.

A letter to the Executive Director, dated December 4, 1981, from the Director of Property for the Real Estate Department, regarding capital improvement rent increases imposed less than twelve months since the tenant's occupancy began;

A letter to the Executive Director from Hearing Officer, Bruce Lillienthal, regretfully reducing his participation as an arbitrator due to the present level of reimbursement for his services.

VI. Director's Report

The Executive Director reported the following items:

The Mayor recently interviewed two candidates for vacant positions on the Rent Board as alternate tenant and neutral members.

Due to school exams, the law clerks are not presently working at the Rent Board office, which is placing a heavier burden on staff to answer phone requests from the public.

The Board of Supervisor's P H and D Committee will be considering a Commercial Rent Control Ordinance on December 15, 1981.

The same committee has scheduled consideration of four sets of amendments to the Residential Rent Ordinance for January 17, 1981.

VII. Calendar Items

At next week's meeting, the Board will consider the Annual Report and draft language for proposed amendments to Part 6 of the Board's Rules and Regulations. Also scheduled is an appeal hearing.

VIII. Remarks from the Public

Mr. Christie, landlord for 680 Sutter St., requested information from the Board regarding capital improvement and utility pass-through increases. The Board referred him to staff.

IX. Adjournment

Presiding Commissioner Baird adjourned the meeting at 7:30 p.m.

12/10/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, December 15, 1981 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

The meeting was called to order at 5:30 p.m. by President Flynn.

II. Roll Call

Commissioners Present: Alviar; Baird; Saunders; Flynn;

Alternate: Payne.

Commissioners not Present: Anderson;

Alternates: Duggan; Fung

Staff Present:

Ricardo Hernandez

Commissioners Anderson and Fung appeared on the record at 5:35 p.m.

Commissioner Saunders left the meeting at 8:15 p.m.

Commissioner Alviar left the meeting at 9:15 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of December 8, 1981.
(Baird/Saunders: 4-0.) **DOCUMENTS DEPT.**

IV. Consideration of Appeals

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A. 1930 Hyde St. #5, 9, 10

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Landlord appealed the Hearing Officer's decision which denied increases sought in excess of the guideline due to comparables and also found landlord's notice of rent increase defective due to the amount of increase requested being erroneous in light of the decision. Landlord's appeal submitted new data on comparables and contested the Hearing Officer's findings that the comparables previously submitted are not an accurate reflection of rents for similar units in the same general area. The Hearing Officer was present at the meeting and presented arguments opposing the appeal.

MSC: To accept the appeal and remand it to the same
Hearing Officer with instructions to allow the
7 percent increase effective October 1, 1981.
(Saunders/Flynn: 4-1, Anderson dissenting).

B. 680 Sutter St. #200, 204, 206, 306, 608

The Board directed postponement of consideration of this landlord's appeal in order for the Hearing Officer, who is currently out of town, to submit comments or appear before the Board.

C. 2120 Pacific Ave. #308, 309, 407

Landlord appealed the Hearing Officer's decision which granted increases exceeding the guidelines on the basis of increased debt service/comparables in addition to a utility pass-through. The appeal claimed errors in the Hearing Officer's determinations on operating expenses, although recognizing that the limiting amount of rent increase is comparable rents. Additionally, the appeal claimed that 7 percent guideline increases should have been accrued.

MSC: To deny this appeal, without prejudice to the
Landlord's right to challenge the Hearing
Officer's characterization of operating expenses
at future hearings. (Baird/Saunders: 5-0.)

D. 3068- 24th St. #1

Landlord appealed the Hearing Officer's decision rendered pursuant to Tenants' filing a rent petition stating that Landlord will allow them to remain in the unit if Tenants agree to pay an over-the-guideline increase. Tenants also filed a Report of Alleged Wrongful Eviction. Although Landlord rescinded the proposed rent increase, Tenants alleged acts of harassment, which the Hearing Officer found to be retaliatory against Tenant for exercising their legal rights under the Rent Ordinance. Landlord's appeal contested the findings based on Tenants' sworn testimony.

MSC: To accept this appeal and schedule a de novo
hearing before the full Board. (Baird/Alviar:
5-0).

E. 3070 California St. #103 and 203

Landlord appealed the Hearing Officer's decision which denied the proposed rent increase for one unit on the basis that the tenants have not yet resided there 12 months and denied any increase over the guideline for the other unit because Landlord had not met his burden in proving justification for such rent increase. The appeal claimed hardship on the Landlord.

MSC: To accept this appeal and schedule a de novo
hearing before the full Board. (Alviar/Saunders:
4-1, Anderson dissenting).

V. Appeal Hearing

402 Haight St. #2

Both Tenants and Landlords were present for this hearing on appeal filed by Landlords. The Board had determined, in granting this appeal, that it would consider only the issue of a rent increase based on an increase in refinancing. Landlords submitted evidence on comparable rents for Tenant's unit and a copy of an amendment to a lease and Housing Assistance Payments Contract under Section 8 federal housing for

an adjustment in rent by reason of increased operating and maintenance costs. The Board will discuss and propose a decision on this appeal at its next meeting.

VI. Old Business

A. Annual Report

Commissioner Saunders reported on the draft of the Annual Report.

B. Amendments to Rules and Regulations

The Board discussed at length proposed amendments to Part 6 of the Rules and Regulations.

VII. Calendar Items

The Board will schedule its next meeting on December 29, 1981 as the Commissioners voted not to hold a meeting on December 22, 1981.

Appeal hearings for the two cases accepted de novo at this meeting will be scheduled January 5th and 12th respectively.

VIII. Adjournment

The meeting adjourned at 9:30 p.m.

12/22/81:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, December 29, 1981 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners present: Anderson; Baird; Saunders; Flynn;
Alternates: Duggan; Payne
Commissioners not present: Alviar;
Alternate: Fung
Staff present: Hernandez; O'Hearn

III. Approval of Minutes

MSC: To approve the minutes of December 15, 1981.
(Anderson/Baird: 4-0.)

IV. Consideration of Appeals

A. 680 Sutter St., apts. 200, 204, 206, 306, and 608

Landlord appealed the Hearing Officer's decision which allowed a refund of the amounts of utility pass through paid by Tenants since March 1981 because such amounts were not properly calculated and in fact had decreased. In addition, the decision found a decrease in services due to Tenants now being required to pay their own electric bills. Landlord's appeal claimed the decision violated his constitutional rights and that the utility pass through should not apply to all units, as ordered in the decision. Further, Landlord contends that the decision is inconsistent with prior decisions concerning this building.

Upon request by the Board, the Hearing Officer was present and provided a summary history of the case.

MSC: To remand this case on the record to the same Hearing Officer for technical corrections on establishing the base rent and to check the reduction in base rent. (Saunders/Anderson: 4-0.)

B. 246 McAllister St.

Landlord appealed the Hearing Officer's decision that work performed on the building did not constitute substantial rehabilitation within the meaning of the Rent Ordinance. The appeal contested the denial of rent increases over 7 percent and the finding regarding substantial rehabilitation.

The Board reviewed written comments submitted by the Tenants' attorney and solicited comments from both the Hearing Officer and Tenants' attorney who were present at the meeting.

MSC: To remand this case on the record to the Hearing Officer for technical corrections on applying the guideline increases under Ordinance section 37.3(a)(1). (Saunders/Anderson: 4-0.)

C. 755-795 Burnett Ave.

Landlord appealed the Hearing Officer's decision which denied 7 percent rent increases due to Landlord's failure to perform requested repair and maintenance. The decision granted increases due to capital improvement costs and a rent reduction for one tenant based on a decrease in housing services. The decision denied rent increases sought on the basis of comparables because Landlord was granted such rent increase in a decision issued last year. The appeal contested this matter and the Hearing Officer's denial of a portion of costs attributed to capital improvements. The appeal also contested other rent increase denials, the reduction and the effective date of increases.

The Hearing Officer was present to provide comments to the Board. The landlord also was present at the meeting. After Board discussion, the following motion was made and amendments approved by Commissioner Baird and seconded by Commissioner Saunders.

MSC: To remand the case on the record to the same Hearing Officer for technical correction in order to expressly enumerate (per Board Policy Directive 1981-1) what the landlord must do to recapture the 7 percent increase. (3-1, Anderson dissenting.)

Amendment 1 and to consider the cost of Tenant's repair of the
MSF: garage door opener, rather than the value of the opener, in determining the appropriate rent reduction. (1-3, Saunders assenting.)

Amendment 2 and to consider the total expenditures for roof-
MSF: ing as capital improvement costs. (1-3, Baird assenting.)

Amendment 3 and to clarify the effective date
MSC: of allowable rent increases. (3-1, Anderson dissenting.)

D. 2487-A Folsom St.

Tenants appealed the Hearing Officer's decision which granted an increase due to capital improvement costs and denied a portion (2%) of the guideline increase due to Landlord's failure to perform requested repair and maintenance. The appeal claimed certain capital

improvement costs were incurred before their tenancy and therefore should not have been included. In addition Tenants claim Landlord's failure to make repairs should warrant denial of the guideline increase.

MSC: To remand the case on the record to the same Hearing Officer for technical correction of allowable capital improvement costs and in order to expressly enumerate (per Board Policy Directive 1981-1) what Landlord must do to recapture the full guideline increase. (Saunders/Baird: 4-0.)

E. 1985 Grove St. #8

Tenants appealed the Hearing Officer's decision which granted a guideline increase and utility pass-through costs. The appeal contests the additional finding which disallowed a reduction in rent sought on the basis of decreased housing services (inadequate heat) and the Hearing Officer's construction of a pass-through period which Landlord failed to specify.

MSC: To deny this appeal. (Baird/Saunders: 4-0.)

V. Decision on Appeal

A. 402 Haight St. #2

The Board discussed a decision on this case heard on appeal on December 15, 1981. The issue considered is whether Landlords are entitled to a rent increase based on an increase in refinancing. Refinancing costs were incurred to pay off a second and third mortgage. The first mortgage was a variable rate interest. The Board noted that Landlords submitted insufficient evidence of comparables.

MSC: To vacate the Hearing Officer's decision and allow the requested rent increase of \$265/month effective August 1, 1981. (Saunders/Baird: 3-1, Anderson dissenting.)

VI. Old Business

A. Annual Report

The Board discussed the status of the Second Annual Report. Proofing corrections were noted. Expansion of the eviction section and editing of the conclusion are expected to be submitted at the next Board meeting.

B. Proposed Amendments

The Board reviewed draft language for a proposed amendment to Rule and Regulation 6.10. The Board directed staff to prepare the language in amendment form.

MSC: To adopt the proposed language for consideration at public hearing on proposed amendments to Rule 6.10. (Saunders/Baird: 4-0.)

VII. Communications

- A. The Board received a postcard from former Commissioner Jamie Horsley who now lives in China.
- B. The Board received a letter from a tenant expressing her concern that it is unfair for the Board to require tenants to provide comparable rent figures as evidence to base a decision regarding proposed rent increases exceeding the guideline.

VIII. New Business

Hearing Officer Ralph Coffman, who was present at the meeting, requested the Board to review its policy concerning conflict of interest matters which affect Hearing Officers' ability to provide services for the Board. The Board proposed sending a memorandum to all Hearing Officers to solicit their comments on this issue and schedule discussion of the matter at the Board meeting scheduled in two weeks.

IX. Director's Report

The Executive Director informed the Board that amendments to the Rent Ordinance have been submitted by members of the Board of Supervisors and will be considered by the Planning, Housing and Development committee.

The Executive Director will meet with a budget analyst on January 5, 1982 regarding the Rent Board's budget.

X. Adjournment

President Flynn adjourned the meeting at 8:10 p.m.

12/31/81:ap

